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EXAMINING THE EMPLOYMENT EFFECTS OF THE AFFORDABLE CARE ACT

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JOINT ECONOMIC COMMITTEE

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EXAMINING THE EMPLOYMENT EFFECTS OF THE AFFORDABLE CARE ACT

WEDNESDAY, JUNE 3, 2015

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, DC.

The Committee met, pursuant to call, at 2:30 p.m. in Room 562 of the Dirksen Senate Office Building, the Honorable Daniel Coats, Chairman, presiding.

Representatives present: Brady of Texas, Paulsen, Schweikert, Grothman, Carolyn B. Maloney of New York, Delaney, and Beyer.

Senators present: Coats, Lee, Cotton, Cassidy, Klobuchar, Casey, Heinrich, and Peters.

Staff present: Barry Dexter, Cary Elliott, Harry Gural, Colleen Healy, Christina King, David Logan, Kristine Michalson, Viraj Mirani, Barry Nolan, Robert O'Quinn, Brian Phillips, Leslie Phillips, Sue Sweet, Aaron Smith, Phoebe Wong.

OPENING STATEMENT OF HON. DANIEL COATS, CHAIRMAN, A U.S. SENATOR FROM INDIANA

Chairman Coats. Normally we would be calling this to order. The House is just finishing a series of votes and our House colleagues are, as I am told, on the way here. And so we want to give them the opportunity to be here when we start. So we are going to delay for just a few more minutes and hopefully they will be arriving shortly.

In the meantime, everybody can keep talking and enjoy—you do not have to be solemn and silent.

[Short recess.]

I am going to call the Committee to order here. What I will do is just give my opening remarks before Ms. Maloney arrives, Congresswoman Maloney arrives, and introduce our witnesses. And then when she arrives, she can give her opening statement and we will move on from there.

This hearing will examine the effects of the Affordable Care Act on the labor market, as well as discuss the implications of those effects on productivity, on income, and the economy at large.

I want to extend a warm welcome to our Committee witnesses. I appreciate you being here today.

The impact of the Affordable Care Act is particularly important to discuss this year now that the delayed employer provisions are in effect and employers are now feeling the pinch and dealing with the mandated requirements of the Act.

The ACA contains numerous provisions that penalize workers and subsidize those who do not work. In fact, the Congressional Budget Office estimates that from 2017 to 2024 the law will reduce the total number of hours worked by as much as 2 percent. People say, well, 2 percent? Well that 2 percent is equal to as much as two and a half million full-time equivalent workers.

Obviously that is going to have a significant impact. The Congressional Budget Office also reasoned that this would result from the, and I quote, "the new taxes and other incentives that they will face and the financial benefits some will receive."

CBO says that a one percent reduction in total labor compensation over the same time frame will likely occur. However, even those figures may underestimate the true impact of the law because those estimates do not include every relevant provision that would affect employment.

For example, the employer insurance mandates will encourage employers to shift workers from full-time to part-time employment. We have seen that already.

The Medicaid expansion will motivate, or could motivate many low-wage full-time workers to reduce hours in order to obtain coverage. The marketplace exchange subsidies phase out abruptly as incomes rise, penalizing workers near those thresholds.

And finally, the series of new taxes on individual income and health care services will reduce the incentive to work, save, and invest.

Further, many of these provisions could profoundly affect business' abilities to expand, alter workers' hours and schedules, and reduce work flexibility for employees.

New compliance costs in terms of time and resources will add significant burden to businesses. Not only does the law affect millions of businesses and their employees, but also thousands of schools and local governments.

I have heard from many Indiana schools that are feeling the impact and have been forced to cut hours to make ends meet on already-constrained budgets. This is hurting not only school employees but students from elementary school through college.

In an era characterized by having to do more with less, these institutions appear to be particularly affected by the undue burdens of the Affordable Care Act.

Sadly, too much of the conversation has attempted to focus on the proposed benefits, without taking into consideration some of the very real and significant costs and their impact particularly on employment.

That is not how a cost-benefit analysis works. It sounds more like a benefits-only analysis.

In addition to these economic burdens, we now know that many of the goals of the Affordable Care Act have not been met. Emergency room visits continue to rise. Health care costs in terms of premiums, co-payments, and deductibles continue to rise, some dramatically. Many seem to be saying that they are happy to hear that more people are covered, but it is less affordable for us.

CBO estimates that premiums will rise an average of 8.5 percent annually over the next three years as temporary government programs intended to reduce insurer costs are phased out.

In most states, insurers with large market shares have proposed rate increases exceeding 20 percent for the next year. ObamaCare is about to become much more expensive than has been advertised.

While this law may have provided affordable access to health care for some, it has seriously hindered others. Many lost their employer-provided insurance and were displaced to the exchanges and Medicaid.

Many lost the ability to keep their plans and their doctors. New taxes built into the law still to be implemented will have additional negative effects on businesses and its workers.

I think I can speak for many of us, if not all of us, here in saying that we would like everybody to be insured and receive quality health care when they need it. However, the policy on the books is not the solution; instead it has led to more unintended problems.

A one-size-fits-all government-run health care system, in my opinion, is not the answer. We are looking for the best workable real-world solution for Americans, and I do not believe we have hit that mark just yet.

We should pursue initiatives that truly make health care an option for all. Such initiatives should drive down costs by increasing competition and transparency, reforming medical malpractice, making health insurance portable, promoting pooling options for small businesses, and giving states greater flexibility in delivering health services.

Americans deserve a better health care system that puts individuals squarely in charge of their health care and does not discourage Americans from working and improving their earnings.

We look forward to discussing these ideas, issues, and your thoughts with these witnesses in more depth. I would like to introduce our witnesses while we are waiting for Ranking Member Maloney.

Let me start with Dr. Casey Mulligan, a Professor of Economics at the University of Chicago. He earned his Ph.D. in Economics from the University of Chicago, and has also served as a visiting professor teaching public economics at Harvard University and Clemson University. He recently wrote a book on the Affordable Care Act entitled "Side Effects: The Economic Consequences of The Health Reform."

Dr. Mulligan, we welcome you here.

I might say, I was attending graduate school at the University of Chicago some time ago when I received the letter from Uncle Sam saying he would rather have me in an Army uniform. I never made it back to Chicago, let alone even think about applying to Harvard. So my life has changed significantly with the arrival of the letter.

Next we have Dr. Joseph Sergio, who is President of The Sergio Corporation located in Indiana. Welcome, Doctor. We truly appreciate you coming here to testify. Dr. Sergio holds a Bachelors and a Masters in Clinical Psychology from Ball State University, and a Ph.D. in Organizational Behavior Management from the University of Notre Dame. He is the former President of the Midwest Region for one of the largest and highest rated disaster restoration networks in North America, and completes over $1 billion of hurricane restoration each year.

Dr. Sergio, we thank you for being here. You might want to give us a hurricane forecast for this upcoming season here.

[Laughter.]

Our next witness is Ms. Barbara Carroll, who has served as Associate Vice Chancellor and Chief Human Resources Officer at North Carolina State University since 2004. She holds an MBA from Vanderbilt's Owen Graduate School of Management. Prior to her job at North Carolina State, she held Chief HR roles in the University of Georgia Swarthmore College and the University of Missouri, St. Louis Campus. Ms. Carroll is a Chair-Elect of the National Board of the College and University Professional Association for Human Resources, and chairs its National Public Policy Advisory Committee.

Thank you, Ms. Carroll for being here.

And finally, we have Dr. Paul Van de Water, a Senior Fellow at the Center on Budget and Policy Priorities where he specializes in Medicare, Social Security, and health coverage issues. He is also Director of the Center's Policy Futures Initiative. Dr. Van de Water has previously worked at the Congressional Budget Office and holds a Bachelor's Degree with Highest Honors in Economics from Princeton University, and a Ph.D. in Economics from the Massachusetts Institute of Technology.

With that, the timing I think is really, really good because I just finished my opening statement. I just finished introducing our witnesses. And if you are ready to give your statement——

Representative Maloney. I am ready.

Chairman Coats [continuing]. I will call on Congresswoman Maloney, our Ranking Member.

[The prepared statement of Chairman Coats appears in the Submissions for the Record on page 34.]

OPENING STATEMENT OF HON. CAROLYN B. MALONEY, RANKING MEMBER, A U.S. REPRESENTATIVE FROM NEW YORK

Representative Maloney. Thank you so much, Chairman Coats, and thank all of you for being with us today for this important hearing, and I look forward to your statements.

The Affordable Care Act is one of the most important pieces of legislation in a generation. Enacted in early 2010 with many of the major provisions taking place in the past year, we are beginning to recognize the positive impacts of this ground-breaking law.

The Affordable Care Act has expanded health insurance coverage in this country and has helped families who could not get health care through their employer, who could not afford it, or who have what the insurance industry has called "pre-existing conditions."

Already the Affordable Care Act has helped to reduce the health care costs and improve the quality of health care.

My Republican friends argue that health care reform kills jobs. Democrats understand that not having health care kills people. A Harvard Medical School study conducted before the Affordable Care Act was enacted found that 45,000 deaths each year are linked to a lack of health care insurance.

The Affordable Care Act has led to the largest expansion of health care coverage in half a century; 16.4 million people have gained health care coverage through the Affordable Care Act.

The Nation's uninsured rate, 11.9 percent, is at the lowest level on record. It could be even lower. An additional 4.3 million people would gain health care insurance by 2016 if 21 states, many governed by Republican legislatures and governors, had not refused to accept the Medicaid expansion contained in the Affordable Care Act. This opposition is largely on ideological grounds. Any discussion of the possible costs of the Affordable Care Act must take place in the context of those overwhelming gains in coverage.

What is less often talked about are the significant benefits to those who are already insured. For example, insurance companies can no longer deny someone coverage because of a pre-existing condition, or drop an individual's coverage when she or he gets sick.

Lifetime limits on benefits are banned, and insurance companies must offer preventive services, including mammograms and others with no out-of-pocket expenses.

In addition to these significant improvements in our health care system, the ACA has positive economic benefits. As a result of the ACA, Americans are no longer forced to remain in jobs that are not optimal for them because they are afraid of losing their health insurance.

Economists call this "job lock." The ACA significantly reduces it.

As a result of the ACA, individuals are able to start their own businesses, or pursue new opportunities that are a good match for their skills.

As result of the ACA, we have a healthier and more productive workforce. Healthier workers are able to spend more time in the workforce, less days away from work. They are more likely to remain in the labor force and less likely to become disabled.

I want to address directly the claim by some that the Affordable Care Act will negatively affect employment. Some call it a, quote, "job killer," end quote, and they are dead wrong.

Since the Affordable Care Act became law in March of 2010, businesses have created 12.3 million jobs during 62 consecutive months of private-sector job growth. That's the longest job growth on record. And as you see the chart, it shows the red valley, and then job growth and expansion for these 62 consecutive months.

In the past year as the Affordable Care Act's major provisions have taken effect, the private sector has created nearly 3 million private sector jobs. Critics suggest that many employees who are working full time would be forced to work part time by employers trying to evade the employer mandate.

They are wrong about this, as well. Only a tiny share of employers—approximately one-fifth of one percent—would be affected by the ACA requirement. Part-time employment has in fact declined, as this chart shows, as a share of total employment.

All of the employment growth has been in full-time jobs. See the long blue line going forward, and the red line, part-time employment.

The number of workers working part time who would prefer full-time work has declined for five consecutive years. Again, this chart points this out quite vividly.

The Affordable Care Act also will reduce the federal deficit. CBO estimates that the ACA will reduce the deficit by $100 billion between 2013 and 2022.

The Affordable Care Act has brought about the largest expansion of health insurance coverage in 50 years, helped to improve health care quality, and reduced health care prices.

At the same time, employment growth has been strong and labor market conditions are continuing to improve. Nevertheless, my Republican colleagues in the House have voted nearly 60 times to repeal or weaken the Affordable Care Act.

The reality is that repealing the ACA would cause millions to lose their coverage and return us to the days when you could not leave your job because you were afraid to lose your health care insurance, or could not get coverage in the first place because you had a pre-existing condition.

I cannot tell you how many women came to see me who were pregnant and could not get health care because pregnancy was considered at that time a pre-existing condition.

It is critical to remember these huge benefits for the insured, the previously uninsured, and the economy as we continue our conversation about the Affordable Care Act.

I look very much forward to hearing the perspective of our witnesses this afternoon, and I thank all of you for appearing before this Committee, and especially the Chairman for calling this important hearing. And I yield back.

[The prepared statement of Representative Maloney appears in the Submissions for the Record on page 36.]

Chairman Coats. Thank you, Congresswoman.

And, Dr. Mulligan, I think we will start with you and go down the line. If you could summarize your comments, you've submitted written reports, and summarize your comments within a roughly five-minute time frame, we would appreciate it. It gives us more time to deal with and answer questions from our colleagues.

Dr. Mulligan.

STATEMENT OF DR. CASEY B. MULLIGAN, PROFESSOR OF ECONOMICS, UNIVERSITY OF CHICAGO, CHICAGO, IL

Dr. Mulligan. Thank you. And good afternoon, Chairman Coats and Ranking Member Maloney, and the members of the Committee.

I appreciate the opportunity and really honor to comment on what I've learned about the labor market effects of the Affordable Care Act.

Subsidizing health insurance in order to make it more affordable for a significant part of the population, as this law does, necessarily involves the creation of disincentives to work and earn.

My testimony characterizes the disincentives created and offers estimates of their likely consequences for the Nation's economy.

Results like these are necessary for conducting a full cost/benefit analysis, as you mentioned, of the law; but they are not sufficient because in my own work I do not have an estimate of the health and other benefits of subsidizing health insurance, and my analysis is limited to the insurance coverage provisions of the law.

Now the law has disincentives and penalties that add to its burden on a family whenever they either earn more or accept a job, or both. These are disincentives to earn and work.

The personal income tax that many of us file in April is perhaps the best known example of a tax with disincentives. Indeed, the ACA has new income taxes, although primarily implicit because the benefits or assistance are withdrawn on the basis of income.

But the ACA contains a second type of tax that is both more important and misunderstood even by the experts. I call that type of tax "full-time employment taxes."

I brought a little chart to show how they work. I show three exhaustive and mutually exclusive employment categories here: top, middle, and bottom. An ESI employer refers to an employer that offers affordable health insurance coverage to its full-time workers. And an ESI worker refers to anyone who works for such an employer.

Now let's look at the relationship between two major ACA features—health insurance subsidies and employer penalties—and employment status, as I have categorized them here. Only the top two categories are eligible for the subsidies administered through the health exchanges because the law says that anyone offered affordable coverage by their employer cannot receive the subsidies. The people on the bottom are out of luck. That by itself pushes people out of the bottom category.

Let me also point out that this push is not an income tax. If people could somehow reduce the number of weeks they work full-time without changing their income, they would avoid this implicit tax. But if they reduce their income without changing their weeks of full-time work, they would not. That is why it is not an income tax.

Only the top category is penalized. Only employers not offering coverage pay penalties, and they pay on the basis of number of people they have on their full-time payroll.

Now let's look at the net of the subsidies and penalties, at least on average. The bottom category, clearly the net is zero. But the top category's net is pretty close to zero, as well.

So the first-order thing that is happening here is redistribution from the top and bottom categories into the middle category. You can call it, as I do, a tax on full-time employment, or you could call it a subsidy to everything but full-time employment. But either way, the economics is the same.

This tax can be so large that some people would earn less working full time than they are working part-time. In essence, the health law has made full-time workers some of the only people who have to pay full price for health care, not to mention the taxes that have to be paid so the Treasury can assist the many people who are not working full-time.

Given the size and the character of the disincentives, you cannot reasonably hope that business will continue as usual in the economy while the law is fully phased in.

I estimate about 3 percent less employment permanently as a result of the law, and about 2 percent less national income or GDP.

Economic reasoning and historical evidence tell us that the employment and income effects will be more visible in the aggregate data than the so-called 29 phenomenon will be. The law is being phased in over time, so economics gives us little reason to expect these effects as early as 2014. But it will not be long—I would say next year or 2017.

In summary, helping people who cannot or will not purchase health insurance has a price in terms of labor market efficiency. The ACA creates new income taxes and full-time employment taxes that will be directly experienced by about half the workforce, and indirectly experienced by essentially the entire Nation.

With more disincentives than we had eight or nine years ago, we cannot reasonably expect the labor market to return back to where it was then. Thank you.

[The prepared statement of Dr. Casey B. Mulligan appears in the Submissions for the Record on page 41.]

Chairman Coats. Thank you very much.

Dr. Sergio.

STATEMENT OF DR. JOSEPH P. SERGIO, PRESIDENT, THE SERGIO CORPORATION, SOUTH BEND, IN

Dr. Sergio. Chairman Coats, Ranking Member Maloney, and distinguished Members of the Joint Economic Committee:

Thank you for the opportunity to address you and to share my experience with the impact of the Affordable Care Act on small businesses.

My name is Joe Sergio. I'm the President of the Sergio Corporation, a parent company with two operating entities headquartered in South Bend, Indiana. I come to you representing the small business community.

By way of introduction, I am a first-generation American citizen. My father was an Italian emigrant who realized the promise of the American Dream as a small businessman. Our family business, the Sergio Corporation, was founded 36 years ago and operates two service businesses, including First Response, a national award-winning disaster restoration company that has been involved in every major hurricane and storm disaster response in the past decade or so.

In 2011, we started a second company called Polar Clean America to provide a green, environmentally friendly dry-ice blast cleaning industrial service. We do not use water chemicals, and we clean everything from nuclear plants to food processing plants, pharmaceutical and automotive industry.

As a small business, we have felt the profound imposition of the Affordable Care Act, or as it is known among many small business entrepreneurs, "the unaffordable care act."

In order to understand the chilling impact of ObamaCare and why it has hurt small business so badly, it is first necessary to understand what makes a job creating small business succeed and sustain itself through time and through strategic market changes.

To be successful in a small business, you must be able to accurately identify, forecast, and control your expenses in order to create profits, profits that you can in turn reinvest in growing the business.

Our profits become the engine of our investment in building the right team with the proper training and being able to utilize cutting-edge technology to create world-class services for our clients.

Small businesses, their advisors, tax professionals, and even insurance companies are very frustrated with ObamaCare complications and regulations. Regardless of the current demonization of

profits by Washington, making a profit does not make one dishonest or evil.

Without a profit, there can be no growth in wages, no new benefits, no new training, no new equipment, no new vehicles, and no research and development that allow us to better compete with the rest of the world.

Profits create the opportunity for growth and development. I think that it was best stated by Edmund Pendleton, President of the Convention ratifying the United States Constitution, when he said, and I quote, "When you take away somebody's profit, you not only remove their incentive to work hard, but you shut off the blessing of wealth that would have benefitted the entire community."

Our businesses have exhausted many options in dealing with the requirements of the Act, but now we had to drop a traditional PPO for a high-deductible ObamaCare-compliant program. As a result, our employees and our companies are paying more for an inferior policy.

Employees are now paying larger co-pays and larger deductibles. Some are opting to pay the penalty rather than absorb the high cost of ObamaCare. Surpassing 50 employees will bring on even more administrative costs and reporting requirements such as the onerous new paperwork that will be dumped on employers in 2016 by the IRS Forms 1094–C and 1095–C. As a result, many small businesses like ours have purposefully stayed under 50 employees and utilized more part-time employees working under 30 hours per week.

Also, as a matter of conscience, many employers disdain the mandate that requires them to cover abortions. This is viewed as un-American and steps on our right to practice our faith unencumbered by the government.

My experience is that most small businesses and insurance professionals, as well as employees and families, are frustrated and angry due to the failed promise to lower costs for the average family by $2,500, and the fact that the one-size-fits-all law actually caused the price of insurance to increase substantially.

In short, ObamaCare has made building a small business more stressful and riskier, and has caused many to pull back and to stop growing. As owners, we feel a responsibility to our families and our children, but also to all of the employees who chose to work together with us on our team, their spouses, and their children as well.

Common sense and a basic understanding of human nature tells me that you will always get what you incentivize. You get more of what you reward and less of what you punish. ObamaCare punishes employment growth and the incentive is to not grow.

I believe that ObamaCare has damaged the best health care system in the world, damaged the American family, and hurt employees and employers alike with huge deductibles which the average person cannot afford.

Please work to undo the vast harms that ObamaCare has and is causing to the middle class and start over, addressing the essential issue of unleashing small businesses to create millions of new jobs

which could raise most people from being at risk and into truly affordable plans.

As a small business entrepreneur and job creator, I urge you to repeal ObamaCare and allow for market innovation within the health industry, allow for pooling across state lines, and allow small businesses freedom from oppressive requirements, new taxes and fees, and increased uncertainty.

Thank you for the opportunity to share my experience with regard to ObamaCare. I look forward to questions.

[The prepared statement of Dr. Joseph P. Sergio appears in the Submissions for the Record on page 72.]

Chairman Coats. Doctor, thank you.

Ms. Carroll.

STATEMENT OF MS. BARBARA L. CARROLL, ASSOCIATE VICE CHANCELLOR FOR HUMAN RESOURCES, NORTH CAROLINA STATE UNIVERSITY, RALEIGH, NC

Ms. Carroll. Honorable Members of the Committee, I would like to spend some time talking about the Affordable Care Act and its impact on colleges and universities.

I am the chief HR officer at North Carolina State University. I am speaking on behalf of the College and University Professional Association for Human Resources, or CUPA–HR, which represents more than 1,900 institutions of higher ed.

CUPA–HR supports the goal of ensuring that Americans have access to health care. Higher ed has historically provided health care benefits for its full-time faculty and staff, so the ACA did not create new requirements for our primary populations of employees. Where we have encountered new challenges, however, is with the unexpected impact on our part-time professionals, and most notably on our students.

In my written testimony I discuss our challenges in applying the ACA to adjunct faculty paid on a per-course basis, and on our work with government agencies to resolve those issues.

I also discuss our concerns with the so-called "Cadillac tax," and a recent informal interpretation by the government that may threaten our ability to support graduate student health coverage.

But given the time limits, I am going to focus on the issue we hear the most about from our CUPA–HR members, which is the ACA's impact on students.

We think of our students, whose primary purpose for being on campus is to seek an education rather than to earn a living, as just that: students, and not employees. But they are currently being swept in under ACA employer mandates. Unless addressed, this has a significant economic impact on both students themselves and on their institutions.

The funds that we provide to students for on-campus assignments are a form of financial aid to support the continuation of the student's degree progress. This type of self-help financial aid is a long-standing characteristic of federal financial aid policy like the Federal Work-Study Program.

We have not historically covered students under employee health care plans or other employee benefit programs like retirement plans. The vast majority of students have access to health care cov-

erage through their family's plan, or through government-regulated student health insurance plans, SHIP plans, provided by their institutions.

Our problem is that the ACA does not specifically exclude most student workers from the employer mandate. So today the only exemption from the Department of Treasury that they have provided is for students' informal work-study programs, an exemption that we requested and appreciate, but it does not go far enough to address the issues with many other student workers.

Since we have to cover 95 percent of our eligible employees in 2016, we are facing the prospect of having to track student hours and offer employee health care coverage to any student who hits ACA's eligibility thresholds. Offering student workers such employee coverage substantially increases the administrative burdens, costs, and liabilities.

Significant new costs result in higher tuition. To avoid this, institutions are being forced to cut on-campus work opportunities for students, which will particularly impact students with limited or no family resources for whom campus financial opportunities are their primary source of support, other than incurring student debt.

In many cases, tracking student work hours is difficult, if not impossible. When is a grad student who is conducting research in a lab under the supervision of a faculty member, when are they learning for their own benefit or society's benefit versus working for the university's benefit?

When is a dormitory resident advisor "working" versus hanging out? Because calculating work hours in these situations is impractical, institutions are going to be forced to err on the side of caution and impose some dramatic constraints.

We also provide stipends to students who participate in activities such as student government, and student publications, drama clubs, radio stations. We certainly do not track these students' participation hours as work for an employer, and the stipends are a way for institutions to help students who otherwise might need to seek off-campus paid employment, to participate in these co-curricular enrichment activities.

While the Department of Labor has long recognized that a student may receive such payment without creating an employment relationship, the Department of Treasury has yet to provide such assurances with respect to the ACA.

As a result, colleges and universities may conclude that they must simply stop providing such stipends. These are bad outcomes for students, bad outcomes for parents, bad outcomes for colleges and universities.

Along with the American Council on Education and other higher-ed associations, CUPA–HR approached Treasury with several possible solutions. Both the Department of Labor and the Department of Treasury have long acknowledged the unique circumstance of students on campus in guidance such as the DOL's Exemption of Students from the Fair Labor Standards Act, and the IRS's own exemption of students from FICA tax.

We hope that Treasury will issue guidance that clearly exempts students from the ACA employer mandate, as well.

Another approach would be for Treasury to deem compliance if an institution offers its students coverage under an ACA-compliant SHIP plan. Between one and one-and-a-half million students receive coverage under such student health plans.

Health and Human Services issued regulations on SHIP plans, making them minimum essential coverage plans, sufficient to meet the ACA. We believe that these solutions are within Treasury's discretionary authority and could prevent unnecessary negative outcomes for students, parents, and institutions.

I would like to note that Treasury has been quite responsive to our requests to meet, and has been willing to engage in thoughtful dialogue on these issues. We wish that they would act rapidly with respect to the solutions we've offered on students.

So I hope bringing forward some of our most pressing economic concerns will help result in some workable solutions.

I would like to express my gratitude to Members of the Committee, and thank you for the opportunity to testify, and I would be happy to answer any questions.

[The prepared statement of Ms. Barbara L. Carroll appears in the Submissions for the Record on page 79.]

Chairman Coats. Ms. Carroll, thank you very much.

And, Dr. Van de Water.

STATEMENT OF DR. PAUL N. VAN de WATER, SENIOR FELLOW, CENTER ON BUDGET AND POLICY PRIORITIES, WASHINGTON, DC

Dr. Van de Water. Thank you, Mr. Chairman, Ranking Member Maloney, and Members of the Committee; I appreciate the opportunity be here this afternoon.

Five years after its enactment, the Affordable Care Act has achieved many of its major objectives and proved wrong its critics' most dire predictions.

The ACA's most visible success, of course, has been to increase the number of Americans with health insurance. Some 17 million more people now have coverage, either through the Health Insurance Exchanges, the Medicaid Expansion, or young adults being covered on their parents' policies.

The Congressional Budget Office projects that the number of newly insured will swell to 25 million within just a few years.

Moreover, as Mrs. Maloney said, health reform is increasing coverage without adding to the budget deficit. The Congressional Budget Office now projects that federal health spending will be nearly $700 billion less over the 2011–2020 period than CBO projected in January 2010, just prior to the enactment of the Affordable Care Act.

Now those are some things that have happened. It is also important to note some things that have not happened.

First, health reform has not been a job killer. The economy has experienced the longest stretch of job growth on record. Although CBO estimates that health reform will slightly reduce total labor compensation, as the Chairman mentioned, that is because some people who used to work mainly to obtain health insurance will now choose to work somewhat less, not because employers will eliminate jobs.

Second, health reform has not created a nation of part-time workers. The share of part-time work rose sharply during the recession, as it normally does during recessions, but that situation has turned around.

Since President Obama signed health reform into law in March 2010, all of the increase in civilian employment has been among people who usually work full-time, and the share of involuntary part-timers, workers who would rather have full-time jobs but cannot find them, continues to fall.

Third, health reform has not increased insurance premiums. From the start, CBO estimated that health reform would slightly reduce the growth of premiums for employer-sponsored health insurance. And in fact, the CBO has recently reported that premiums for private health insurers have grown even less rapidly than CBO originally estimated.

All in all, the economic effects of health reform in the short term have been quite small. According to Bloomberg Business, and I quote, "The biggest entitlement legislation in a generation is causing barely a ripple in corporate America."

Over the longer run, health reform will have several additional positive effects on the economy. First, health reform will reduce the budget deficit, as CBO has consistently estimated.

Lower deficits will help hold down interest rates, free up capital for private investment, and boost long-term economic growth.

Second, health reform will increase labor market flexibility. It will reduce job lock, a situation in which workers stay in the job only because they need to keep their health insurance. As a result, Americans will be more able to switch jobs and start new businesses, and the result will be a more productive economy.

Third, health reform will improve health outcomes by helping people obtain preventive care and other health services and improving the continuity of care. This too will increase productivity.

And finally, and most important, the ACA includes a wide range of measures to slow the growth of health care costs, which are consuming an ever-increasing share of our economy's output and which have contributed significantly to the stagnation in workers' real wages in recent years.

As these provisions take hold, workers will see stronger growth in their take-home pay. Slowing the growth of health care costs is one of our Nation's most pressing economic challenges, and success in that effort will benefit employers, workers, and taxpayers.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Paul N. Van de Water appears in the Submissions for the Record on page 95.]

Chairman Coats. Thank you, Doctor.

We will now go through our order here in terms of the system we have set up, which is convoluted, somewhat Rube Goldberg, because this is a Joint Committee so we have Senate Members of both parties, and House Members of both parties, and we have an on-arrival policy as well as a seniority policy, and I am just going to go down through the names and do the best we can. And if I skip members, talk to me afterward and we will work to get you early in there next time. But this is giving my staff fits in terms of people coming and going, and so forth.

Dr. Van de Water, your presentation seemed to be significantly in contrast to what was said by the other three witnesses, and particularly some of the specifics here relative to the impact on the economy, the impact on employment, wages, et cetera.

I have got thousands, thousands of letters and e-mails into my office, and testimonials from people all across the State of Indiana that would say, "I don't know what Dr. Van de Water is talking about. I was promised that I wouldn't pay a cent more, the President made that very, very clear, than what I was paying now. I was promised that I could keep my policy, if I liked my policy, period, he said. In other words, a done deal.

I was promised that if I liked my health care plan, I could keep my health care plan. And I am not able to do that. I am paying a lot more."

I just read yesterday, I think it was in The Wall Street Journal, of the escalating premiums that are now coming out based on the 2015 and future next round of premium costs.

And then people have said, you know, all of a sudden my co-pays have gone way up, and my deductibles are out of sight.

So I guess what I am wondering here is, you know, why the disconnect? Does it really go back to the fact that this thing was totally oversold when it was passed, and particularly by the President when he simply guaranteed the American people by using the word "period" behind every statement that he made, meaning take it to the bank, this is a done deal. You can get all this. You can keep your doctor. Your premiums will not go up. They'll go down. Your deductibles, co-pays, this is the best thing since sliced bread.

Now as I said in my opening statement, we all want to try to find a solution to deal with those who do not have insurance, or who are underinsured. The real question is: Is this the best thing that we could have come up with? And should we not look for some modifications, changes, repeals, start over, whatever, to put a product out that better represented what was told to the American people would come down?

And so that is in a sense more of a statement than a question. My question is this, and I am going to go to Dr. Sergio and anybody else who wants to respond, and certainly Dr. Van de Water you can respond to what they say:

But, Dr. Sergio, Dr. Mulligan I think this applies to you, too, the arbitrary levels of 50 in terms of its employment—I mean its impact on your decisions on employment, you mentioned you have two businesses. Now they are separate businesses. I have talked to a lot of businesses who have basically said I have had to create separate businesses because it is so punitive to get over the 50 mark.

The other factor here is the 30-hour work week. And it is no secret that, in entry-level jobs in particular, chains all across the country are simply moving to part-time workers rather than full-time workers. I have had that own personal experience in my family with children, and even some grandchildren now that they say you have a job here but you cannot work more than 30 hours because we are not—we just cannot afford to do it. Our margins are too slim. And you mentioned profits. We cannot afford that.

Anyway, Dr. Sergio, if you want to respond to that, and anybody else. I will let this be my one question here and then move on to my colleagues.

Dr. Sergio. I know for a fact that small businesses create about 90 percent of the jobs out here. And I have been involved in small business since I was 17. We started our own company, my brother and I. We built swimming pools. We paid for our education at Notre Dame. Went on to get my education. Another brother took that business and built it.

Everybody in my family has been a small business person. My grandparents who came from Italy. My brothers and sisters. And so I have been involved with that. I was a consultant with small business for a year, and I have worked with them my entire life.

There is a disconnect here between, you know, corporate and whatever the statistics are, because none of those match with any of the experience that I have. I have never in my life experienced so much anger and frustration. As I was preparing to come here, I was sort of doing a survey of people as I am talking to them, all the way through on the airplane coming here, and I did not give away my position, or say where I was coming from, but as soon as you mention this, this ObamaCare, people start telling you war stories.

And if you could let them talk for five minutes, they get very, very angry and give you specific examples of their health care costs going up, and of the various problems.

I had a college student that I talked to, and he was bemoaning the fact that he is trying to make some money to pay for school, and his employer will not give him any more than 29 hours a week.

And what I have seen is that, because of the uncertainty with the costs associated with this, and with all of the changes that keep coming as they continue to interpret what everything means, even the professionals that we have worked with come back, and they are changing. And it is very hard for us as business people to predict our costs, and to look at the impact on our business so that now, instead of seeing an opportunity, going after that opportunity, creating jobs, knowing that we can do something very positive, you know, we have got to pull back and really look at it and say is it worth it doing this, because if we bring in more employees it is going to push us over a threshold.

So that is a big concern to us.

Chairman Coats. Thank you. And, quickly, Dr. Mulligan, any comments you would like to make in this regard?

Dr. Mulligan. You mentioned the arbitrary thresholds, 30 hours a week, 50 employees. They are arbitrary. In my Profession we call them "cliffs" or "notches." Medicaid programs had them for a while. And they do not make a lot of sense.

They encourage a lot of economic damage around the thresholds, and I think you would probably get both sides of the aisle to agree to kind of fix that. But that is not the only fix that is needed. You can have it be done smoothly and charge businesses for every employee in a more smooth fashion, instead of just nailing them at the 50th, and you would still have some of the same economic damage we are talking about. You would not get such vivid testimony out of it, but you would still have damage there.

Fundamentally, when you are giving stuff to people when they do not work and earn, you are going to have a disincentive. That is a tough thing to get around.

Chairman Coats. I think it would only be fair, Dr. Van de Water, if I gave you a chance to respond to that.

Dr. Van de Water. Thank you, Mr. Chairman. You have raised a lot of different issues, and I cannot respond to all of them, but let me just take one, for example, the issue of requiring employers with more than 50 employees to offer health insurance.

Your term, if I remember correctly, I think you called it an arbitrary threshold. In a sense, it is an arbitrary threshold. One could have chosen 40 or 60, but the key point to remember is that it is not an unreasonable threshold.

Before coming over, I just pulled off the latest tabulation from the Kaiser Family Foundation, which does an annual survey on employer health insurance coverage. And even back in 2010 at the time health reform was being enacted, in that group of firms who had 50 to 99 employees, 95 percent of those firms offered health insurance to at least some of their employees.

So the notion that requiring firms with more than 50 employees to offer health insurance coverage is a tremendous burden is something that is belied by the data. That is, in fact, something that most firms of that size were doing prior to health reform.

So requiring other firms in that size group also to offer health insurance is not something particularly burdensome and unreasonable. I could also explain why the 30-hour threshold is also a reasonable choice. These choices may seem arbitrary, but they were not. They were based on a rational effort to structure the law in the best possible way.

Chairman Coats. I think we can spend a great amount of time just debating this very one subject. There are many things to talk about here. My time is over, and I turn now to Ranking Member Maloney.

Representative Maloney. Thank you.

Dr. Mulligan, do you think the Affordable Care Act should be repealed in its entirety? Yes, or no?

Dr. Mulligan. On the first page of my testimony I explain that I do not have all the ingredients for a cost/benefit analysis. My specialty has been on the economic consequences, the labor market consequences. You have to add my results to someone who has results on the health side of things.

You mentioned you think it is making the Nation healthier. You may be right. I think that needs to be studied. There are parts of the Act that make the Nation less healthy, as well. But in the end, I do not have the full cost/benefit analysis to reasonably answer that question.

Representative Maloney. Dr. Sergio, do you favor repealing the Affordable Care Act in its entirety?

Dr. Sergio. Absolutely.

Representative Maloney. Okay. And, Ms. Carroll, do you support complete repeal of the Affordable Care Act?

Ms. Carroll. CUPA–HR, which I am representing, has not taken a position one way or another. We are looking at what exists right

now and the challenges that it is creating for us, but we have not taken a position.

Representative Maloney. And, Dr. Van de Water, do you think the law should be repealed?

Dr. Van de Water. Certainly not.

Representative Maloney. Okay. And, Dr. Mulligan—let me go to Dr. Sergio—Dr. Sergio, you said it should be repealed. So if it is repealed, do you propose to give—how do you propose to give Americans protections that do not have health care? How do you propose to help people who have pre-existing conditions? Pregnancy was considered a pre-existing condition.

If you repeal it, how are you going to take care of people that—we now have 17 million more people who have health care. They would lose their health care. How would you propose to take care of those people that have lost their health care?

Dr. Sergio. Well that is a great question, and it is one that I do not want to speak for 17 million people, or 9 million people, whatever the number is, that has come on. I tend to use a lot of good, common sense in small business, along with facts and knowledge, and my opinion is that we had a workable, very, very strong health care system that needed some adjustment, and they threw the baby out with the bath water.

Representative Maloney. I don't know. The Harvard study said 45,000 people were dying each year because of lack of health care. On 9/11 we lost 3,000 in that terrible, terrible attack——

Dr. Sergio. No, I am really here to testify not on the other statistics. I am testifying on my experience with small business and the fact that——

Representative Maloney. I understand. My point was that if we repeal it, people will die because they will not have health care.

But let's go back to Dr. Mulligan. You said that you favor—you did not say that you favored repeal, but I would say that conservatives have made dire predictions about the impact of the Affordable Care Act. And to quote Speaker John Boehner, he said it would, quote, "ruin our economy," end quote.

The Speaker also said it was leading to a, quote, "net loss of people with health insurance," end quote. Now The Washington Post gave him and that claim four Pinocchios, the worst rating in its scale, what it calls "a whopper." But my question, Dr. Mulligan, is: Was Speaker Boehner right? Has it ruined the economy?

Dr. Mulligan. I can answer the question, "Has it ruined the economy?" I don't know what Mr. Boehner has said——

Representative Maloney. No. Has it ruined the economy? The question is: Has it ruined the economy?

Dr. Mulligan. My prediction, as I said, 3 percent less employment. That means 97 percent of the employment you would have had would still be there. I don't think the word "ruin" applies to that.

Representative Maloney. Okay, but how many consecutive months of job growth have we had?

Dr. Mulligan. You know, I have not run those numbers but, yeah, your opening statement, you know——

Representative Maloney. The longest stretch on record.

Dr. Mulligan. Right.

Representative Maloney. And how many people have gained insurance since the Affordable Care Act was enacted?

Dr. Mulligan. You know, I am not up to date on the numbers. My book predicts that actually CBO underestimated how many people will gain insurance. I am quite bullish, if you will, on the number of people who will gain insurance from the law.

Representative Maloney. It was 17 million.

Dr. Van de Water, Republican critics have claimed that the Affordable Care Act would reduce jobs and lead to an explosion in part-time employment. But since it was enacted in March of 2010, has there been a negative impact on employment?

Dr. Van de Water. Of course it is all but impossible to disentangle the effects of health reform from the effects of all the other things that have been going on. But certainly as you suggest, all the aggregate data indicate that, to the extent health reform may have had any negative effects, they are sufficiently small that they do not show up in the aggregate data.

That is why we see this long record of job growth that you have talked about, the continuing decline in the share of part-time employment in the total, the fact that all of the net job creation has been in full-time jobs.

Those data do not prove that there is no negative effect whatever, but they do strongly suggest that if there has been one, it has been pretty tiny.

Representative Maloney. And as you pointed out in your statement, and the graph that we used showed really that part-time had remained roughly much the same, but that full-time job growth has grown.

Would you like to elaborate on that?

Dr. Van de Water. I think both you and I have made the point. I do not think there is much to add.

Representative Maloney. And in the past, some workers have been forced to stay in jobs, as you noted, because they were not able to leave; they were in job lock; they did not have portability.

One of the benefits is that workers can take their health insurance and go to other jobs. What are the costs of job lock on individuals? And, I would say, to the overall economy?

Dr. Van de Water. The cost to individuals is that they have to work in a job in which they may be less well suited, less able to contribute according to their abilities, and that can mean less earnings for them and less output for the economy as a whole.

Representative Maloney. And the ability of an employee to take their health care with them, how important do you think that is to the economy?

Dr. Van de Water. Oh, it is extremely important. And it also relates to the issue that Dr. Sergio was raising. It also allows people to take more initiative in setting up small businesses of their own. And we can already see that, people engaging in Internet startups and things like that. People setting up new businesses in their garage. They can do that because they have assured access to health coverage.

Representative Maloney. So it has been a positive. My time has expired.

Chairman Coats. Thank you.

Vice Chairman Brady.

Vice Chairman Brady. Thank you, Mr. Chairman, for hosting this meeting. I am sorry for coming in late. I did get a chance to read the testimony last evening.

Dr. Van de Water, I actually think your arguments buttress the arguments of the other witnesses, that the Affordable Care Act has actually contributed to the worst economic recovery in a half a century.

You mentioned our economy has experienced the longest stretch of job growth on record, 60 months, but the truth is we are missing—this recovery is so slow and disappointing, we are missing 5.7 million jobs that should be back for Americans at this point.

The number of adults in the workforce has actually gone backwards slightly since the recovery began—not increased; it's actually gone backward a bit. And the labor force participation, people actually in the workforce looking for jobs, is near a 30-year low.

And so when people brag—I am pleased we are adding jobs. Every month we add jobs is a good thing. But at this disappointing pace, boasting about 60 months of this job growth is like boasting that my car started for 60 months. It only runs 15 miles an hour, but it is really going terrifically.

In truth, the argument has been made about—and by the Chairman, about the impact it has had on business investment and job growth are very real.

So my question to you is, out of fairness, what empirical support do you have for the ACA aiding the economy? Because just the conclusion that A happened and B happened, and so A must have caused it, is like assuming when the ACA started the Houston Astros were in the basement. They lost three seasons of 100 games. They have now rebuilt. They are leading the division. That did not occur because of the ACA. That just occurred.

My argument, I think our economy is hurting because of this law. So empirical evidence tying directly this law to the economy, could you share that with the Committee?

Dr. Van de Water. Mr. Brady, I think that, you have somewhat mischaracterized what I have said. You are absolutely right that because one thing has happened at the same time as something else, that does not mean that one has caused the other.

But I think I was very careful not to say that the Affordable Care Act was causing the job growth. What I was responding to was the extreme negative claims that the ACA has been a, quote, "job killer." That was a phrase that has been used extensively by some of your colleagues.

I was trying to also rebut the claim that the Affordable Care Act has had a major effect on part-time work. Again, it is very hard to disentangle in a large, complicated economy such as ours, what has caused what.

But certainly I think that when one looks at the aggregate data, it is very hard to conclude that the ACA itself has been responsible for slower job growth, or for a big change in the mix of job growth.

For example, it is also undeniable that the recovery has not been as strong as most anyone would like. But clearly one of the major contributors to that has been the lack of demand in the economy. There are other—there are many——

Vice Chairman Brady. Just to reclaim my time—Mr. Chairman, I do not mean to interrupt——

Dr. Van de Water. No, please.

Vice Chairman Brady [continuing]. But, you know, back home, we live north of Houston. We have a pizza place that is holding off on two expansions in two communities directly because of the ACA.

We have another pilot plant, manufacturing plant, that the costs have gone up so high for them that they have—it is the equivalent of building a new plant and hiring 100 workers—they are not doing it.

And so in real life, we are seeing real job effects. Dr. Mulligan, do you want to weigh in on this? I know I am running short of time, but on the impact you view? How much slower are we because of this as a contributing factor?

Dr. Mulligan. I wish I had more to offer today, but I tried to explain in my testimony really it is too early to directly measure the labor market consequences, because the employer mandate was not even begun until a few months ago. The exchanges are still building up. They rolled out in a terrible way.

So we are kind of in the dark in that sense. On the other hand, the ACA is not the first time that we have had a change in taxes. And the taxes are real. All you have to do is read that complicated law and see all the taxes in there.

So what I have done is I have gone back to history and say, in the past when we had tax changes, and when the British had tax changes, and the Swedes had tax changes, what happened to their economies?

And the answer is: They get smaller. And so my estimate, as I mentioned, is 3 percent less employment, and 2 percent less GDP once this law is phased in, which as I said in my testimony may be next year or the year after when we will have the main tax components phased in there.

Vice Chairman Brady. Okay, it is just my gut feel listening back home that this is having an impact and is a drag on our economy.

Chairman, thank you.

Chairman Coats. Thank you.

We now turn to an actual practicing doctor who also can give us some insights in terms of the impact. Thank you, Dr. Cassidy.

Dr. Cassidy. Thank you, Mr. Chairman.

Dr. Van de Water—could you show my first slide, please?

[Slide shown.]

So let me just make the point that if you take part-time workers in the aggregate across all quintiles of our population, you might not see an increase in the number of part-time workers. But what that slide shows—and I am sorry it is so small—is that if you break it down into the quintiles, the lowest quintile is the one which gets hammered.

And those are the ones whose recovery from part-time work to full-time work has not occurred during this recession. Now—and I believe this is from Heritage Foundation, which is a conservative think tank—but I also notice that Janet Yellen in her testimony at the Board of Governors meeting in Chicago of last year said that there are 7 million people working part-time who would like a full-

time job. This number is much larger than we would expect at 6.7 unemployment based on past experience. This partly employed worker is a sign that labor conditions are worse.

Now again if you take the aggregate, it obscures it. But if you break it down, it is those most vulnerable workers who are being punished by this law.

Now when you do your research do you break it down into—you mentioned aggregate data; you specifically used the word "aggregate"—have you looked specifically at the lowest quintile of income workers?

Dr. Van de Water. I have to admit to Mr. Cassidy that I am not familiar with this particular chart, but what I am familiar with, if you look at the restaurant industry as an example, which is an industry which hires primarily people lower down in the earnings distribution, the workweek has returned essentially to pre-recession levels.

Dr. Cassidy. Now they always had a lot of part-time workers. I only have five minutes. I do not mean to interrupt.

Dr. Van de Water. Go ahead, sir.

Dr. Cassidy. They always have a lot of part-time workers. There is an article, a woman, Naomi Baldman, I think from Chicago, that looked at textile workers and the service industry. In fact, can we go to our next slide? Maybe I should just go to this.

In this one it's a tale of two recoveries, that slide on your right. The red line is lower-income workers, and the blue line is higher income. Those are the number of hours as a percent change since December 2007.

You can see again a divergence where the lower income worker continues to have lower part-time jobs, lower work weeks than the higher wage worker.

Now isn't that what economic theory would predict? That the marginal cost of providing insurance for a low-wage worker is higher, and so therefore she or he is more likely to have their hours reduced so the employer avoids the penalty?

Dr. Van de Water. No, actually not. And I think actually this goes back to what I would have said partly in response to Mr. Brady's point.

I think if there is one thing that economists generally agree on it is that health care, like other fringe benefits, represents a form of compensation to the worker. So that requiring employers to offer health coverage is for the most part—and again there are some exceptions—but for the most part, not likely to affect total compensation, but simply to affect the mix——

Dr. Cassidy. But if you're at minimum wage—please, I only have two minutes—if you are already at minimum wage, then that will be a significant raise for the person who would be a minimum-wage worker. Correct?

Dr. Van de Water. That would be the exception, but most workers are not at the minimum wage.

Dr. Cassidy. And those would be the lowest quintile workers. Those would be the ones we found would be the most vulnerable to having their hours reduced.

Dr. Van de Water. Again, when you say "lowest quintile," I am not sure which measure you are using to define the quintiles. But they are probably part of it.

Dr. Cassidy. Hourly wage. And so then let me just make a couple more points. We are almost out of time.

You mentioned that the insurance premium increases have mitigated. I will point out, there is an article from Politico—I do not know if we have that handout—which—oh, is that it? Let me point out that when people speak about health care costs, this is health care cost in the white line, which actually began to decrease prior to ObamaCare.

This (indicating) is the inflation rate in percentages of insurance premium costs, and I will point out that the latest headlines are that insurers are asking for as much as a 60 percent increase in premiums. This is in the individual exchange market.

So if we actually want to look at the effect of the ObamaCare law, there is a disconnect now between the compounding rate increases of the premiums and health care costs.

By the way, that is a secular trend which began to decrease prior to the onset of the law. This is what Dr. Sergio is experiencing, workers are finding this (indicating a chart) is their reality, not this (indicating) is their reality.

Lastly, I am out of time, I will make one more point. Actually, I am out of time. I will hold my point. Thank you.

Chairman Coats. Well just before we started here, Dr. Cassidy introduced me to his son who is a senior at Penn studying economics. I thought when I turned to Dr. Cassidy, a medical doctor, I would be getting questions from a medical doctor. We were getting questions from someone steeped in economics who must have gotten that from his son. So instead of the son following the father, the father is following the son.

Dr. Cassidy. Do not tell my son that. I would point out, you cannot disconnect the economics of this, though. When someone has a $6,000 deductible, economic theory empirically they are foregoing therapy. So as I as a physician am seeing people forego therapy because they have a $6,000 deductible, so economics is factored in their health care, Mr. Chairman.

Thank you.

Chairman Coats. Thank you.

Representative Beyer. They are all gone.

Chairman Coats. I was looking down there.

Representative Beyer. Thank you, Senator, Mr. Chairman.

Dr. Mulligan, thank you for the excellent analysis. I was struck by one of the very first things you said, in quote, "I have no estimate on the health and other benefits of the subsidies from the health insurance"—subsidizing health insurance, which seemed very honest and accurate. You are only presenting the negative impacts through the insurance perspective, which you called the 3 percent negative decline and 2 percent in GDP.

We have also seen that the Harvard study showed 45,000 deaths per year. Obviously if we save 45,000 lives, that is an enormous economic investment. If we look at job growth and GDP growth from all the positive sides, Medicare, Medicaid, Social Security, Disability Insurance, the economic impacts on families.

I have seen various estimates of just what it means to all these hundreds of millions of Americans not to have the insecurity of a preexisting waiver—or of a preexisting condition. And, finally, bankruptcy, because we know the health costs are the number one cause for bankruptcies in America.

How hard would it be as an economist to make some analysis of the positive impacts? And can you foresee integrating your negative impacts with everything good that's coming from this?

Dr. Mulligan. I like how you characterized it, except one exception. I do not draw the line between positive and negative. That is not—I did not——

Representative Beyer. Job creation and job——

Dr. Mulligan. Labor market versus health is how I drew the line. Okay? And since I have not studied health—I cannot rule out the idea that there are positive health benefits. And I agree with you, health is extremely valuable and you want to put a big price tag on it.

I am just not sure of the direction. Senator Cassidy here mentioned how it might be—there are some forces in the law. It's a complicated law pushing toward less health care. Other forces toward more health care.

You want me to sign on to a Harvard study? No way. I found the Harvard guys have got the labor market part wrong, and they might have got the health part wrong, as well.

But I agree that the full analysis has to count the health benefits, because health, or cost, whatever they are, because health is an extremely valuable resource in our world.

Representative Beyer. Thank you, Dr. Mulligan.

Dr. Sergio, I very much resonated with your testimony. I have been running a small business, a family business for more than 40 years. And we have had the sticker shock, too, with the health insurance premiums.

By the way, we had them in 2003, 2004, 2005, 2006. The last couple of years have not been any harder than the ones before the Affordable Care Act.

Do you think your business will survive?

Dr. Sergio. Our business absolutely will, and I think it will be through the shear determination of our team of employees. We love the people who work for us. We care about them. And that is where, you know, we have worked real hard over the last three——

Representative Beyer. Let me jump ahead because I have a bunch of points I would like to make, too, but I think you make the point. We do survive. We do adapt.

Dr. Sergio. Yes.

Representative Beyer. This is not the only new expense we have seen in 40 years.

Dr. Sergio. Our costs went up 24 percent this year. We had it flat for the last three years with our health insurance. It definitely hurt us very badly and our benefits have decreased significantly.

Representative Beyer. I want to know, where was all this health insurance innovation before the Affordable Care Act? Why do we suddenly think it is going to show up now when it did not show up before?

Dr. Sergio. Well I think there are some common sense solutions. We created some of the problems by not allowing pooling across state lines. It was regulation that caused those problems. If we would have allowed competition to exist, we could have solved many of the problems in that regard.

Senator Coats had a whole list of great ideas that should be examined. And lastly is that, you know, we had so much right, I think if we looked at the amount of money that has been spent and the amount of human energy that has been expended, we could have spent a lot less on that and bought every one of the people that did not have insurance a brand new Cadillac policy and we still would have been better off.

That is what I think, that we threw out this program that could have been fixed with some common sense practical solutions, including pooling, and now it is causing a lot of damage and a lot more to come.

Representative Beyer. We have already seen what it is costing your business and my businesses to insure 17 million new. It is hard to imagine how we are going to hit 45 or 50 million just with pooling or a little innovation.

But Professor Van de Water, CBO says $700 billion less in health care costs over this X period of time, I do not know if it was 8 years or 10 years. Where does that $700 billion go? Is that reflected in business profits, or additional family income, or reduced family expenses? Who gets that $700 billion?

Dr. Van de Water. That accrues in the form of lower federal deficits than would otherwise be the case.

Representative Beyer. So it not just—it is the federal deficit that we are considering, rather than overall expenses?

Dr. Van de Water. Right. That is just looking at the effect on the federal budget.

Representative Beyer. Okay. Great. Mr. Chairman, my time is about up, I would defer back.

Chairman Coats. Congressman Paulsen.

Representative Paulsen. Thank you, Mr. Chairman.

I want to follow up on a couple of points, because I think we have had some real good back and forth here. The topic of the hearing is the employment effects of the Affordable Care Act. It is really interesting to me that there are a couple of numbers that are real key to point out, which this Committee has studied in detail regarding the growth gap and where should be, where we could be even if we had had an average recovery right now.

We had negative point seven percent GDP growth last quarter. I mean, that is—negative growth? That is embarrassing. And from June of 2009 to April of 2014, that is a five-year period, it took nearly five years to get back to having the exact same number of people working than when the recession began in 2007.

That is the longest period of time to return to the starting point in a recession than at any other time in U.S. history. And we still have record numbers of people working part-time that would prefer to work full-time. Sure the number is getting better, but growth has been so slow. And the labor force participation rate is still at its lowest point since 1978.

Then you have a third of Americans age 18 to 31 that were living at home with their parents last year, which is the highest percentage in four decades.

So we certainly have some challenges. I would argue this 30-hour rule, which we have had some discussion about, is interesting to me. When you redefine full-time work at 30 hours, I am concerned about the impact it has had on employees and workers in terms of wages and hours of the medium, lower quintile, which we had a conversation about. And not only in Minnesota but across the country.

I remember having a conversation with a restaurant owner in Minnesota who owned seven facilities with 535 employees; 41 percent of his employees were full-time workers. So he made the decision to hire them full-time, which is probably abnormal for the restaurant industry. But he says because of the new health care law, he has essentially had to make the decision now to move and shift those folks to 29 hours. So that is a 25 percent pay cut for these individuals.

Of course many of them are probably going to go and try to find another part-time job somewhere else, but it is totally counterproductive. The law is clearly having an impact there.

Dr. Mulligan, does your research—because you have done a lot of research in some of these areas—does it indicate at all that this Minnesota business owner is not alone in making that type of a difficult decision? Or can you quantify the impact of what the 30-hour rule would be on employers and the wages and hours of employees working for them might be?

Dr. Mulligan. As I mentioned, it is tough to say that in the present, but as the law is phased in and we have adjusted to it, there is no doubt that you will have what they call the 29ers, people working 29 hours because of the law and they would have been working 35 maybe. Low-wage people might have even been working 40.

My estimates, they are about 4 percent of the workforce will be in that situation, as opposed to roughly zero before the law.

Representative Paulsen. Okay. Dr. Sergio, you are a small business owner, you are going to survive. You are going to persevere. You know, my grandfather is a small business owner. My uncles run the company now. Same attitude.

They went through some real tough times, and they are going to persevere. But when you have this 50-employee threshold, you start making decisions in a different way. And the fact is, you would be doing better now had you not had this artificial threshold.

I mean, how much better would you be doing now? Rather than just surviving, you would be thriving, I assume?

Dr. Sergio. Thank you for that question, because that is part of—I do not want to just "survive," I want to thrive. I want to grow. I want to create new jobs. I want to give people careers.

I have family members in my business. I have others that are not related that are young people that want to grow, and we want to keep them. And we cannot do that by just struggling to survive. The amount of overhead and the time just to track the hours that are coming up here and all the regulation just strips out our ability to create wealth—create wealth, create value for our clients, and

to be able to serve them in a better way. That is how you make money. That is how you get the money into the system, and you give raises to people, is to create value for our clients.

We spend too much time with our higher level people now trying to figure out what does this whole ObamaCare mean? What is the impact? How are we going to adjust?

And for my disaster business, we have a disaster. You know, Hurricane Katrina, Superstorm Sandy, you get some inkling that it is going to hit. You have some time. You are prepared. We are like the fire department, prepared to go out and serve our clients.

Okay, now instead of focusing on the value and providing, we have got to stop and think about, okay, how much do we need—how much work do we need to pull in here? Because if we go ahead and we respond to this, and we bring on part-time people, and we bring on some temporary people and we bring on some others and it pushes us up over a threshold that puts us in a whole new ball game, and all of our expenses change that we are not even sure exactly what those expenses are, that is a whole other uncertainty that makes it difficult for us to just be able to go out and serve our clients and take care of them.

So, you know, is it something we are going to figure out? I hope so. Have we figured it out? Absolutely not. It is very stressful to be faced with that. And, you know, I am the case study guy here. I mean, we have got all the statistics. It goes back. You say, okay——

Representative Paulsen. You are the small business owner.

Dr. Sergio. I have not found—and I sincerely have not found one company, one person, one employee that has come to me and said, boy, this is just great. Everybody I talk to is telling me—as a matter of fact, a lady I sat next to on the plane, when she heard where I was coming, she said "give 'em hell. This is killing us." She had multiple sclerosis. She is a fragile lady sitting there on the plane, and she heard about what I was doing and she started going into this.

She said she had lost benefits. Her costs went up. And it has got her very, very worried. She looked like she was maybe in her late 60s. So I hear this 100 percent. It is not a subtle thing. It is 100 percent against the impact so far.

So that is my contribution here.

Representative Paulsen. We appreciate your testimony, and we have heard many of those similar stories.

And thank you, Mr. Chairman.

Chairman Coats. You're welcome.

Next up is Congressman Schweikert.

Representative Schweikert. Thank you, Mr. Chairman.

I am going to do one of those things that is always dangerous, and that is to sort of go off script and see if I can get some help here from all the incredibly smart people in this room.

One of the projects our office has been working on over and over is to actually try to get quality population and datasets. Because one of the things that just drives me insane is when we are in a committee like this, which is supposed to be a little more high brow, shall we be flattering to ourselves, and I start to hear the anecdotals.

So could I beg of the smart people on the panel to work with me here? The doctor has walked us through saying there are 17 million that have been benefitted so far. Okay, of that 17, let's walk through the categories.

How many people are in that? Is it 27 and under population? What is my hard number?

Dr. Van de Water. Somewhere on the order of 3 million.

Representative Schweikert. Okay, so I have 3 million laying there. And we already know the cost modeling within that. It is actually—there has been a cost shifting there. My Medicare—excuse me, my Medicaid expansion, what is my population there?

Dr. Van de Water. Oh, 5 or 6 million, roughly.

Representative Schweikert. Would you believe some estimates place that number closer to 11?

Dr. Van de Water. Excuse me?

Representative Schweikert. Oh, excuse me, Medicaid expansion, almost 11? Is that an outlier? Or am I once again having this problem of conflicting datasets?

Dr. Van de Water. I am not sure. My recollection could be incorrect. We just need to make this add up to 17.

Representative Schweikert. So 11 in Medicaid and CHIP. So I see a number of heads nodding over there. But let's just pretend, and we can always come back because it's my model.

So now I am looking at 3, and 11, and so if I add that up, I am at 14. So you are telling me my rest of my population is operating under this law, I have helped how many? And now I want to do a breakout of my allocation of administrative and overhead costs broken into this population because we are now seeing some datasets coming through our office, and I would love some help on this, that we may be—everyone saw the article about three or four days ago that just a pure administrative might be somewhere around $1,374 per enrollee in that third category?

Do you remember the speeches around here for those of us watching at home on television that this new health care law is going to make things so much more efficient, so much less expensive, too. But that does not appear to be what we are seeing in the data.

And then for those of you who come from the study of insurance and financial products world, your dollar per, or my dollar costs per dollar of coverage we know is also skewed out on the curve because of the very high deductibles.

So we are having these wonderful discussions here, and we are talking past each other. I would love just an honest conversation that goes beyond aspirational and say what is this program really accomplishing? And if we want to help our brothers and sisters and those with preexisting conditions, are we really doing it the best way?

And, please, I do not mean for this to be rambling. I am actually looking for something I am throwing out, for that 17 million. Does anyone else have a breakout of what they think it is?

Doctor? Doctor? Doctor? It's like being at a doctor convention.

Dr. Mulligan. I did not really—since it was an employment effects event today, I did not come prepared with those numbers, but I did recognize a few of the numbers you mentioned.

There is a distinction between a Medicaid expansion and the so-called out-of-the-woodwork Medicaid people. So there are people who live in the state that did not expand Medicaid, but they gained Medicaid anyway because of all the hullabaloo around ObamaCare and healthcare.gov and so on. So I think probably our 11 million number is adding those two together, and it is fine to add them together, but that is I think why there was a little misunderstanding between the two.

Representative Schweikert. Okay. Well I extend this as an open call to everyone in the room, Minority staff, Majority staff, if you have honest datasets so we can really dig into what is really going on here? Because if this is creating as much of an economic distortion as it appears it is and a misallocation, that is actually the ultimate debate discussion we should be having here. Because we are seeing some crazy numbers of dollars being spent per dollar of actual insurance coverage being provided.

And I know some folks love a gigantic bureaucracy because it employs friends and family, but it is a crazy way to spend money.

And with that, I yield back, Mr. Chairman.

Chairman Coats. Congressman Grothman.

Representative Grothman. I guess my first question will be for Dr. Mulligan. I was reading his book—wait a minute, you wrote the book. Okay, I have two questions for you.

First of all, when I talk to my employers back home, again and again I am finding people having employees who either do not want to work full time, or do not want to work at all, or do not want to improve themselves and make more money because of cliffs that happen in medical coverage designed by the government, either Medicaid—in Wisconsin we call it "badgercare"—or ObamaCare.

Could you comment on the influence that combined Medicaid plus ObamaCare has on the desirability in our country to work more, be it to make $15,000 instead of nothing, or $30,000 instead of $15,000 or what have you.

Dr. Mulligan. Yeah, sure. We have assistance programs before ObamaCare. It is not the first one. And there were cliffs and disincentives in there before.

I found that when ObamaCare came in on top of all that, it reduced on average the incentive to work by about 9 percent. I think that was in the last table in my testimony.

And that is a change in the incentive to work and in the direction of disincentive, and I am not sure we have seen a change like that much in our history. It is a big change. And that is why I am expecting some, let's say, medium size to large effects of that in the direction of earning less and working less.

Representative Grothman. Do you believe, combined with other government welfare programs, that is one of the major reasons, or you elaborate in your book, collectively one of the major reasons why our economy has dragged so long? Because we have this combined with other programs all designed to encourage people not to work?

Dr. Mulligan. Yes, I do. Our programs have become kind of more European in the last, let's say, eight years. And our labor

market has become more European, which the European labor market, in case you don't know, tends to be small.

Representative Grothman. And do you believe, anecdotally, as you talk to employers—and maybe I will ask the others, as well—do you believe we are discouraging people from making more money? Or another way of putting that is discouraging people from working harder in our economy?

Dr. Mulligan. There is no doubt that the idea of a job is being discouraged. I think both parties are influenced by that, both the employer and the employee. I cannot really blame one side or the other, but there is no doubt that these programs have resulted in less employment, less people working, and families having less income.

Representative Grothman. I am having, yeah, I am having employers in my district complain that people either do not want to work, or take more hours, because it jeopardizes their benefits.

Let me get to another question which I do not think has been discussed enough. In addition to the fact that our government seems to hate work, our government also seems to have a strong bias against marriage. And the idea that if you get married to somebody who is making a decent income, you will lose your benefits.

And, you know, I used to think it was a good idea to have children raised by mom and dad at home, but I wonder if you could comment on the anti-marriage incentives that seem to be built into ObamaCare?

Dr. Mulligan. I am aware—I wish I had done more work on it—but I am aware that ObamaCare adds to the marriage tax, if you will, because its assistance is based on household income, which adds together the two adults, if there are two, but only one adult if there is one. So as a result you get a better deal out of ObamaCare if as an adult you are living without a spouse.

And I have not been able to grind out any numbers on that yet, but I know that is a big factor. And it would be an interesting proposal to say, well, what if we gave these out on the basis of individual income rather than family income.

But ObamaCare does not do that, so it taxes marriage.

Representative Grothman. So in other words, if I am somebody making a smaller income and I have an opportunity to marry somebody making a larger income, there would be a substantial marriage penalty discouraging me from getting married.

Dr. Mulligan. Yes. I have not run the numbers, but I agree that it is substantial.

Representative Grothman. Well it is a good suggestion for a future book. Thank you, very much.

Chairman Coats. Thank you.

Senator Lee, you are our clean-up hitter. Your timing is impeccable. Unless somebody else walks in the door, you get the last word.

Senator Lee. Wonderful. Thank you very much, Mr. Chairman. Thanks to all of you for being here.

Mr. Mulligan, I wanted to start with you. The Administration has frequently boasted that the Affordable Care Act has somehow answered the issue of job lock for many Americans.

But there do seem to be other types of locks that are arguably created by the same legislation. So due to the fear of possibly losing subsidies under the Affordable Care Act, do you think some workers and some families might find themselves locked into certain jobs with fewer hours?

Dr. Mulligan. "Lock" is not an economic term, but they will find that if they pursue those new opportunities they will actually have to pay for it. They will be working harder and have less to spend. There is no doubt about that.

Senator Lee. Right. And especially considering that the Affordable Care Act did not equalize the tax treatment of health benefits. So in that respect, are we not still arguably hampering economic growth and the general entrepreneurial spirit by locking people into being compensated with health care? In other words, the failure to correct this problem does sort of contribute to that sort of track?

Dr. Mulligan. By "problem," you mean that there has been kind of an implicit subsidy of employer health insurance through the tax exclusion——

Senator Lee. Yes.

Dr. Mulligan [continuing]. Angle of it? You are right that the ACA does not really fix that. It makes it worse in some cases. The employer penalty, for example, is pushing more of that stuff that you argue we have too much of.

And then there are other aspects of it that push people out of it. So it has made it a lot more complicated and less efficient, but it has not really pushed toward solving it.

Senator Lee. And then, Dr. Sergio, in your written testimony you talk about what I will call "health care lockout." Can you explain how some of your employees are unable to utilize their insurance because they cannot afford the deductible, after the premiums that in many instances are increased? So that have to pay higher premiums, and then, you know, do you maybe have some people who may be foregoing insurance and paying the penalty so they can actually afford to get their medications and their routine doctor visits?

Dr. Sergio. There are a variety of responses I have heard. I know of—and I am speaking beyond just my company here, because I work with enough other small businesses, as well as insurance individuals who work with other small businesses, but there are people who are foregoing pay increases because then they will lose their subsidies, on the very low end.

But the majority here, the problem is this: A small business has a certain amount of money they can spend on labor. And you can try to pump some more into that thing to make that a little bit larger percentage, but you spend it on your hourly rates, you spend it on your benefits. You've got a total amount of cost there.

And what ObamaCare has done is pushed more and more of that money that's been budgeted into the benefits side, which then hurts the ability to give somebody increases in their day-to-day compensation and they cannot live on a fixed income like that, and they are working harder and harder. Well they've got now higher premium costs, and then with the additional cost of the deductible

they have got to absorb $3,000 on top of that. So it is a killer trying to find the funding there for them to pay for all of it.

So it ends up becoming like a major medical policy that they do not want to really use unless the wheels are falling off on some medical condition.

I know of some individuals who are to the point now of choosing which three pills out of four or five that they are supposed to be taking for their medical health because they cannot afford them all. And, you know, this is just something that is really painful to me because we do care about our employees.

We know a lot about their family conditions and that sort of thing, and we want to be working to help them grow. And it is just very, very difficult when we have got limited resources now to be able to put towards that.

We have been very, very proud of the strong benefit package we have offered our employees. We have paid 50 percent of our employees' insurance, as well as all their dependents through all these years and, you know, it is getting to the point that I sit down with my partners and we do not know what we are going to do here. And we actually feel like we are failing our employees because we cannot take care of them all well enough.

Senator Lee. So you've got higher administrative costs, as Congressman Schweikert pointed out.

Dr. Sergio. Yes, absolutely.

Senator Lee. And then a lot of those higher administrative costs then are being borne by individuals who are paying higher premiums. Not only are they paying higher premiums but they have also got high deductibles.

Dr. Sergio. Yes.

Senator Lee. And so while the law might in some circumstances be described by its proponents as driving more people into health insurance, it might actually be limiting their options in terms of actually securing health care.

Dr. Sergio. Yes.

Senator Lee. And in some cases dissuading them from doing.

Dr. Sergio. And the other aspect of it is the younger folks that are healthier are looking at it and saying I'm just better off paying the penalty and not getting health insurance at all because I don't really need it. And this is so incredibly expensive I am not going to take it. So now they are not covered, either.

So now they are taking money out of their pockets, sending it to some pool in the government. They are not getting any coverage on that, and it is pulling healthy individuals out of the total pool.

So then you have just, you know, older folks like me in there that have higher costs.

Senator Lee. Thank you, very much.

Dr. Sergio. You're welcome.

Chairman Coats. Thank you. I want to thank our witnesses. This was an engaging discussion, an ongoing discussion, and obviously there is a lot more to come on this topic. It is something we have been deliberating and debating and processing now for five years, since the implementation of the Affordable Care Act, and clearly we have got a lot of work to do in terms of how we would

proceed to deal with some of the major issues, and real issues, that have been raised today.

But I want to thank each of our witnesses for their participation. And with that, I think we will call it to a close. The hearing is adjourned.

(Whereupon, at 4:15 p.m., Wednesday, June 3, 2015, the hearing was adjourned.)

SUBMISSIONS FOR THE RECORD

PREPARED STATEMENT OF HON. DAN COATS, CHAIRMAN, JOINT ECONOMIC COMMITTEE

The committee will come to order.

I would like to extend a warm welcome to our witnesses. I appreciate your being here today to discuss how the Affordable Care Act (ACA) has continued to affect the ability of Americans to earn and do business. I'm also interested in hearing about the effects this law has on our broader economy.

The impact of the ACA is particularly important to discuss this year now that the delayed employer provisions are in effect and employers are now feeling the pinch.

The ACA contains numerous provisions that penalize workers and subsidize those who don't work. In fact, the Congressional Budget Office estimates that, from 2017 to 2024, the law will reduce the total number of hours worked by as much as two percent. That is equal to as many as two and a half million full-time-equivalent workers.

CBO reasoned that this would result from "the new taxes and other incentives they will face and the financial benefits some will receive."

CBO also estimates a one percent reduction in total labor compensation over the same time frame.

However, even those figures may underestimate the true impact of the law because those estimates don't include every relevant provision that would affect employment. For example, the employer insurance mandates will encourage employers to shift workers from full-time to part-time employment. The Medicaid expansion will motivate many low-wage, full-time workers to reduce hours to obtain coverage. The marketplace exchange subsidies phase out abruptly as incomes rise, penalizing workers near the thresholds. Finally, the series of new taxes on individual income and health care services will reduce the incentive to work, save and invest.

Further, many of these provisions will profoundly affect businesses' abilities to expand, alter workers' hours and schedules and reduce work flexibility for employees. New compliance costs in terms of time and resources will add significant burden to businesses.

Not only does the law affect millions of businesses and their employees, but also thousands of schools and local governments. I have heard from many Hoosier schools that are feeling the impact and have been forced to cut hours to make ends meet on already constrained budgets. This is hurting not only school employees but students from elementary school to college.

In an era characterized by having to do more with less, these institutions appear to be particularly affected by the undue burdens of the ACA.

Sadly, too much of the conversation has attempted to focus on the purported benefits without taking into consideration some of the very real and significant costs. That's not how a cost-benefit analysis works; that sounds like a "benefits only" analysis.

In addition to these economic burdens, many of the goals of the ACA have not been met.

Emergency room visits continue to rise. Health care costs in terms of premiums, co-payments and deductibles continue to rise. Many seem to be saying that they're "happy to hear that more people are covered, but it's less affordable for us." CBO estimates that premiums will rise an average of 8.5 percent annually over the next three years as temporary government programs intended to reduce insurer costs are phased out. In most states, insurers with large market shares have proposed rate increases exceeding 20 percent for next year. ObamaCare is about to become more expensive.

While this law may have provided affordable access to health care for some, it has seriously hindered others. Many lost their employer-provided insurance and were displaced to the exchanges and Medicaid. Many lost the ability to keep their plans and doctors. New taxes built into the law still to be implemented will have additional negative effects on businesses and their workers.

I think I can speak for all of us here in saying that we'd like everyone to be insured and receive quality health care when they need it. However, the policy on the books isn't the solution. Instead, it has led to more unintended problems. A one-size-fits-all, government-run health care system is not the answer. We're looking for the best workable, real-world solution for Americans, and I don't believe we've hit that mark just yet.

We should pursue initiatives that truly make health care an option for all. Such initiatives should drive down costs by increasing competition and transparency, reforming medical malpractice, making health insurance portable, promoting pooling options for small businesses and giving states greater flexibility in delivering health services. Americans deserve a better health care system that puts individuals

squarely in charge of their health care, and doesn't discourage Americans from working and improving their earnings.

With that, I look forward to discussing these issues in more depth with our witnesses today.

I now recognize Ranking Member Maloney for her opening statement.

Statement of Carolyn B. Maloney, Ranking Democrat
Joint Economic Committee
June 3, 2015
As Prepared for Delivery

Thank you Chairman Coats for holding today's hearing.

The Affordable Care Act is one of the most important pieces of legislation in a generation.

Enacted in early 2010, with many of the major provisions taking effect in the past year, we are beginning to recognize the positive impacts of this ground-breaking law.

The ACA has expanded health insurance coverage in this country and has helped families who couldn't get health care through their employer, who couldn't afford it or who have what the insurance industry calls a "pre-existing condition."

Already, the ACA has helped to reduce health care costs and improve the quality of health care.

Republicans argue that health care reform kills jobs. Democrats understand that not having health care - kills people.

A Harvard Medical School study conducted before the ACA was enacted found that 45,000 deaths each year are linked to a lack of health insurance.

The ACA has led to the largest expansion of health care coverage in half a century. 16.4 million people have gained health insurance coverage through the ACA.

The nation's uninsured rate – 11.9 percent – is at its lowest level on record.

It could be even lower. An additional 4.3 million people would gain health insurance by 2016 if 21 states, many governed by Republican legislatures and governors, had not refused to accept the Medicaid expansion contained in the ACA. This opposition is largely on ideological grounds.

Any discussion of the possible costs of the ACA must take place in the context of these overwhelming gains in coverage. What is less often talked about are the significant benefits to those who are already insured.

For example, insurance companies can no longer deny someone coverage because of a pre-existing condition or drop an individual's coverage when she gets sick.

Lifetime limits on benefits are banned.

And insurance companies must offer preventive services including mammograms and colonoscopies with no out-of-pocket costs.

In addition to these significant improvements in our health care system, the ACA has positive economic benefits.

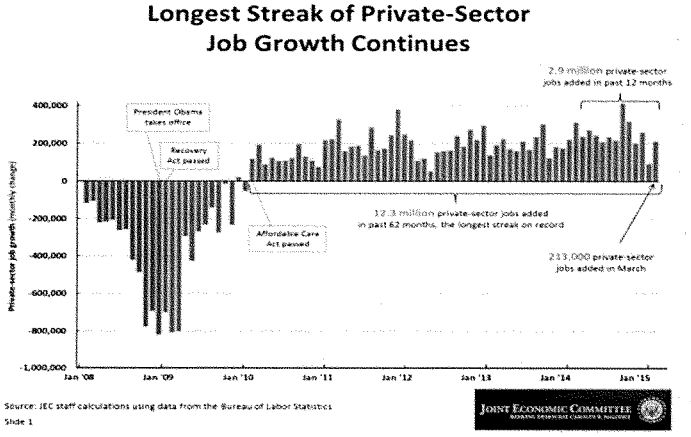
As a result of the ACA, Americans are no longer forced to remain in jobs that are not optimal for them because they are afraid of losing their insurance. Economists call this "job lock." The ACA significantly reduces it.

As a result of the ACA, individuals are able to start their own businesses or pursue new opportunities that are a good match for their skills.

As a result of the ACA, we have a healthier and more productive workforce. Healthier workers are able to spend more time in the workforce, and less days away from work. They are more likely to remain in the labor force and less likely to become disabled.

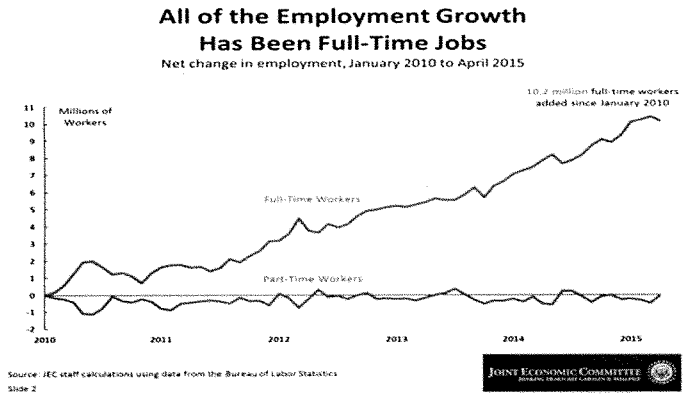
I want to address directly the claim by some that the ACA will negatively affect employment – some call it a "job killer." They are dead wrong.

Since the ACA became law in March 2010, businesses have created 12.3 million jobs – during 62 consecutive months of private-sector job growth. In the past year, as the ACA's major provisions have taken effect, the private sector has created nearly 3 million jobs.

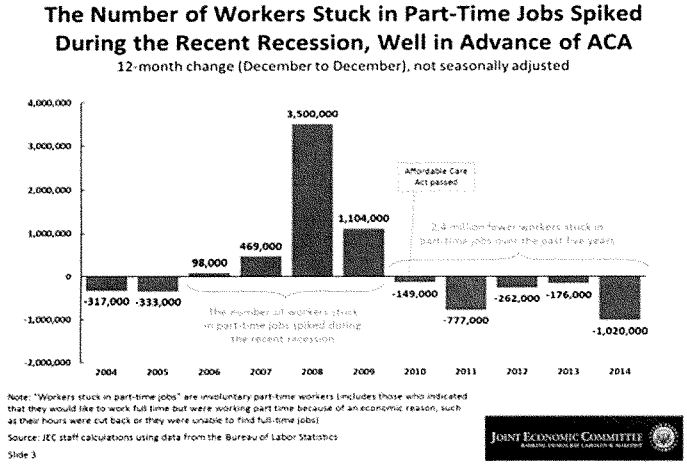


Critics suggest that many employees who are working full time would be forced to work part time by employers trying to evade the employer mandate. They are wrong about this as well. Only a tiny share of employers – approximately one-fifth of one percent – would be affected by the ACA requirement.

Part-time employment has, in fact, declined as a share of total employment. All of the employment growth has been in full-time jobs.



The number of workers working part time who would prefer full-time work has declined for five consecutive years.



As a result of the ACA, consumers are saving money. Since the Affordable Care Act was enacted, health care prices have risen at the slowest rate in nearly 50 years.

In 2014, the average family premium in employer-based coverage was about $1,800 less than if the law had not been enacted and growth since 2010 had been at the 2000-2010 average. A

significant part of the savings are already being passed onto workers, which improves family finances.

The ACA also will reduce the federal deficit. CBO estimates that the ACA will reduce the deficit by $100 billion between 2013 and 2022.

The Affordable Care Act has brought about the largest expansion of health insurance coverage in 50 years, helped to improve health care quality and reduce health care prices. At the same time, employment growth has been strong and labor market conditions are continuing to improve.

Nevertheless, my Republican colleagues in the House have voted nearly 60 times to repeal or weaken the ACA.

The reality is that repealing the Affordable Care Act would cause millions to lose their coverage and return us to the days when you couldn't leave your job because you were afraid to lose your health insurance or couldn't get coverage in the first place because you had a pre-existing condition.

It's critical to remember these huge benefits for the insured, the previously uninsured and the economy as we continue our conversation about the ACA.

I look forward to hearing the perspective of our witnesses this afternoon. Thank you for appearing before the Committee.

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PREPARED STATEMENT OF HON. KEVIN BRADY, VICE CHAIRMAN, JOINT ECONOMIC COMMITTEE

Chairman Coats, Ranking Member Maloney, Members, and Distinguished Witnesses:

Even though the United States has been technically in a recovery for more than five-and-a-half years, our economy remains stuck in second gear. In 2014, our economy grew by 2.4 percent, and it actually contracted at an annual rate of 0.7 percent during the first quarter of this year.

As of Friday, the "Growth Gap" between the Obama recovery and an average recovery since 1960 expanded to $1.7 trillion in real GDP. Just to catch up with an average recovery, our economy would have to grow at an annual rate of 8.7 percent each and every quarter until President Obama leaves the White House.

Today's hearing sheds light on an important cause of the underlying weakness of the economy—the unintended, but nevertheless economically destructive consequences of disincentives for employment found in ObamaCare.

In a few minutes before this Committee, Dr. Casey Mulligan of the University of Chicago will testify:

Fully phased in, the ACA is likely to permanently reduce weekly employment and aggregate work hours three percent, and national income two percent, below what they would have been if the law had not been passed.

To some, a two or three percent reduction may not sound like much, but based on the recent economic data that means:

- 4.3 million fewer Americans employed; and
- A U.S. economy that is $325 billion smaller.

My friends, those are quite significant negative effects.

Today's witnesses will not testify that our healthcare system was perfect, or without need for reform, prior to the passage of ObamaCare. Nor will today's witnesses say every single provision of ObamaCare law is bad.

Today's witnesses will, however, make clear that bypassing regular legislative order and enacting a major overhaul of America's health insurance system on a strictly partisan basis produced an inferior law, from which Americans are suffering economically.

Economists rightly consider the phase-out of government-provided benefits as household income rises, including Medicaid and ObamaCare subsidies, as an implicit income tax. Moreover, the effective marginal income tax rate—including federal income taxes, federal payroll taxes, state income taxes, and the phase-outs of earned income tax credits and ObamaCare subsidies—for working families seeking to improve their economic conditions is often shockingly high—sometimes even exceeding 100 percent.

Indeed, Dr. Mulligan provides an example in which a head-of-household with three dependents that earns $26 per hour is better off financially by moving from full-time work with employer-provided health insurance to working 29 hours per week and receiving ObamaCare subsidies to buy health insurance through a government-run exchange.

Not only does ObamaCare create disincentives for Americans to work, but ObamaCare also creates disincentives for employers to expand and hire more American workers. In 2016, large employers not offering health insurance coverage and having 49 full-time employees would owe $43,320 in employer penalties for hiring one more full-time worker. Moreover, such employers would owe another $2,166 per year for the 51st and every subsequent full-time worker added to the payroll.

The disincentive effects of these penalties are multiplied because they are not tax-deductible. At a 39 percent tax rate, the penalty of $2,166 has a net after-tax cost to the employer equal to the cost of providing an additional $3,298 of wages to employees.

The negative effects of the employer penalty on less well-paid workers is especially pernicious. $3,298 is a much larger percentage of $20,000 than $100,000. That creates a strong incentive for employers not providing coverage to keep the hours of lower-paid workers to under 30 hours per week to avoid penalties.

The choice before us is not limited to ObamaCare or the status quo before the law's enactment. We can and must do better. Working together, we can implement a new patient-driven, market-based approach that still helps those American families who need assistance to buy health insurance. We can minimize the unintended economic disincentives and negative consequences of ObamaCare.

I look forward to today's discussion with our witnesses.

Testimony before the Joint Economic Committee

Hearing on "Examining the Employment Effects of the Affordable Care Act"

Room 562 of the Dirksen Senate Office Building

June 3, 2015

by

Casey B. Mulligan

University of Chicago

Good afternoon Chairman Coats, Ranking Member Maloney and members of the Committee. Thank you for this opportunity to comment on the labor market effects of the Affordable Care Act.

Subsidizing health insurance in order to make it more affordable for a significant part of the population—as the Affordable Care Act does—necessarily involves the creation of disincentives to work and earn. The purpose of my testimony is to characterize the disincentives created by the Patient Protection and Affordable Care Act (hereafter, ACA) and to offer some estimates of their likely consequences for the labor market and the nation's economy as a whole. Results like mine are necessary for conducting a full cost-benefit analysis of the ACA, but they are not sufficient because (a) I have no estimate of the health and other benefits of subsidizing health insurance and (b) my analysis is limited to the insurance-coverage provisions of the ACA.[1]

My primary results relate to the character, size, and prevalence of the ACA's disincentives (and, in a few instances, incentives) to work and earn. The results require few assumptions about how people, businesses, and markets will react to the disincentives. Rather, these "tax measurement" results presented in Sections I and II are based on the law itself and measures of the structure of the labor market prior to the ACA. Sections III and IV offer estimates of the likely behavioral responses to the disincentives, which depend both on the tax measurements and historical observations of the effects of taxes.

Although elements of the ACA may push in the direction of more productivity and employment, they are overwhelmed by disincentives elsewhere in the law. Fully phased in, the ACA is likely to permanently reduce weekly employment and aggregate work hours three percent, and national income two percent, below what they would have been if the law had not been passed.

The remainder of my testimony offers more detail as to types and magnitudes of the economic forces involved. The testimony is my own and does not necessarily reflect the views of the University of Chicago.

I. The Economic Character of the ACA's Disincentives

The insurance-coverage provisions of the ACA that create disincentives have been variously described as taxes, penalties, assistance, credits, subsidies, and mandates, but most of them can either be understood as a tax on income or a tax on full-time employment.

[1] Those provisions are: the employer mandate, health insurance marketplaces and their related assistance programs, the individual mandate, and changes to the Medicaid program.

The ACA offers new assistance, credits, and subsidies for people without jobs or otherwise with low incomes.[2] Although these benefits are rarely called taxes by laymen, they have many of the characteristics of taxes because a program beneficiary loses some or all of her benefits as a consequence of either (i) earning more income or (ii) accepting a job, or both. The more income that a person receives when *not* working, the less is the reward to working.

In economics jargon, the withdrawal or "phasing out" of program benefits with beneficiary income is called an "implicit income tax." The ACA has at least three new implicit income taxes, which are part of its formulae for premium assistance amounts, cost-sharing subsidies, and end-of-tax-year reconciliation of premium tax credits. These new income taxes apply to the head of any household (and to the spouse, if there is one) in which head, spouse, or dependents are insured on the ACA's exchanges and receive one or more of these types of assistance. Among these people, the rate at which the ACA implicitly taxes incomes varies – it can exceed 100 percent in some instances – but I estimate that the average is about 20 percent (Mulligan 2014b, Chapter 5). This 20 percent is in addition to the longstanding taxes that people already pay on their incomes – such as normal federal income tax, state income tax, payroll tax, and the phaseout of income tax credits.

A majority of the full-time workforce will obtain health insurance through an employer, and thereby typically not experience the ACA's new income taxes while they are working. Nevertheless, the ACA creates a new implicit tax for them, too, that is arguably more important than the law's new income taxes. Specifically, employees offered affordable health insurance are deemed by the ACA to be ineligible for exchange subsidies until the moment they leave employment.[3] Their opportunity for exchange subsidies when not employed full-time reduces the costs of eliminating their job, temporarily suspending it, or failing to create the job in the first place. People without full-time jobs who receive the exchange subsidies will find that their eligibility ceases the moment they start a job and can be enrolled in affordable health insurance from the employer, even if starting the job does not increase income for the year.[4] From this perspective, the ACA's exchange subsidies have many of the economic characteristics of an implicit tax on full-time employment.

Full-time workers not able to obtain health insurance through their employer will, in effect, also experience a full-time employment tax (hereafter, FTET) from the ACA because their employment generates a penalty, or a threat of several penalties (more on that below) for the employer. The penalties and forgone subsidies can be avoided during any month by either working part time (defined by the ACA to be less than 30 hours weekly) or not working at all

[2] The ACA is not unique in this regard. Unemployment Insurance and the Supplemental Nutrition Assistance Program are two other examples of social programs that provide assistance on the basis of a participant's income or employment status.

[3] Section 36B(c)(2) of the Internal Revenue Code of 1986, as amended by the ACA.

[4] Normally, but not always (e.g., switching from part-time employment to full-time employment at the same weekly rate of pay), accepting a full-time position increases calendar-year income. But the point here is to distinguish between employment and income taxes. Income taxes deriving from the extra income generated by employment only add to the overall tax burden on that employment.

during that month. This is the essential economic characteristic of a full-time employment tax (hereafter, FTET).

Income taxes and FTETs are easily confused with each other because employment typically generates income, and thereby triggers income taxes. But the total tax burden on employment decisions includes the FTETs, too. Take the penalty on large employers pursuant to the ACA's employer mandate, which currently is $174 per month per full-time employee over eighty employees.[5] The $174 is not an income tax because it is what assessable employers owe for each full-time employee they add to a month's payroll during 2015, regardless of how rich or poor is the employee.[6] Full-time work is taxed by the $174 per month, at the same time that it is taxed by income and payroll taxes.

FTETs like these also reward full-time job separations such as layoffs, early retirements, and quits, as compared to what the costs and benefits would be without the ACA. Take an early retirement from a job that included health insurance. Before the ACA, such a retirement would require the employer and employee (together or individually) to continue to pay the full cost of the employee's health insurance even after he stopped working, or have the employee lose private insurance coverage.[7] From the perspective of employer and employee, the ACA shifts a significant part of this cost to the American taxpayer by offering assistance that is contingent on leaving the job.

Employers have already realized this, as with the City of Chicago, which "plan[ned] to start reducing health insurance coverage [in 2014] for more than 30,000 retired city workers and begin shifting them to President Barack Obama's new federal system" (Dardick 2013). New rewards for job separations give employers and employees less incentive to take steps that might avoid or delay layoffs, early retirements, and quits.

In February 2014, the White House responded to conclusions like these by celebrating job separations because the law supposedly helps people escape the drudgery of work by giving them "a better choice and a better option than they had before."[8] This conclusion contains a grain of truth because the health-insurance market before the ACA was tilted in the direction of employer-provided plans, but a complete economic analysis must also recognize the taxpayer burdens created by retirements, unemployment, and other cases in which able people are not

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[5] The penalty in 2014 was $2,000 per year per full-time employee (over thirty), but was not enforced by the IRS (United States Internal Revenue Service 2015). After 2014, the penalty amount is indexed to health cost inflation as measured by the HHS secretary. Because she measured the inflation rate to be 4.213431463% (79 FR 13802), the annualized 2015 penalty is $2,084 per full-time employee (over 80, for 2015 only; see also Henry J. Kaiser Family Foundation (2014)), which is $174 per month. The monthly penalty rate for 2016 will be $181, because the premium adjustment percentage for that year has already been determined to be 8.316047520 (80 FR 10825).

[6] Appendix I of my testimony offers further illustration as to why the insurance-coverage provisions of the ACA have many of the economic characteristics of full-time employment taxes.

[7] The employer might have, for example, included early retirees (that is, people who retired before reaching the Medicare-eligibility age) in the company health plan, or the employee might have taken advantage of the COBRA provision to remain on the plan. A brief exception to the "full cost" situation was the temporary COBRA premium assistance program.

[8] The quote is from the Chairman of the White House Council of Economic Advisers, Jason Furman, as recorded by the *Wall Street Journal* (2014).

working. When these job separations occur, American taxpayers will have to start paying a significant part of the person's insurance premiums, plus extra taxpayer-financed Social Security benefits that early retirees may receive. And we must also count the income, payroll, and sales tax revenues that both state and federal governments lose as people pursue the "better option than they had before," as well as the tendency (if any) for the productivity of workers to exceed their compensation.[9]

II. The Size and Prevalence of the ACA's Disincentives

As an example of the extreme incentives that can be created by the implicit FTET, consider a hypothetical person comparing a part-time position to a full-time position in 2016. The full-time position, shown in the left column of Table 1, requires 40 hours of work and $100 of employment expenses (such as commuting or child care) per week, for 50 weeks per year. The part-time position requires 29 hours of work and $75 of employment expenses per week. Each position costs the employer $26 per hour worked, including employer payroll taxes and employer contributions for health insurance (if any).[10]

Only the full-time position includes affordable health insurance, which means a full-time employee would not be eligible to receive assistance from the ACA for premiums or for out-of-pocket health expenses. The employer pays 78 percent of the premiums for the family insurance plan and withholds the remaining premiums of $3,146 from the paychecks of participating full-time employees (they also pay out-of-pocket costs, which are discussed separately below). A full-time employee's income subject to tax is $35,021, which excludes employer payroll taxes (7.65 percent of the $35,021), employer health insurance contributions, and employee premiums withheld.

Part-time employees get less total compensation—$37,700—because they work fewer hours. The part-time employees are not eligible for ESI and the tax exclusions that go with it, which makes their income subject to tax ($35,021) equal to their total compensation minus employer payroll taxes. It is a coincidence that income subject to tax is the same for full-time and part-time employees; more on this below.

The part-time employees are eligible for subsidized health plans from the ACA's exchanges because they are not offered affordable health insurance by their employer. I assume that the second-cheapest silver plan has the same expected covered medical expenses as the employer plan, namely, $17,300 per year including out-of-pocket payments for the covered expenses that are not reimbursed by the plan because of deductibles, copayments, and so on. By

[9] The White House explanation also errs by claiming that basic economics assigns blame or credit for job losses that result from changing market distortions (see also Furman's 2014 interview with Fox News). The economics of tax incidence demonstrates that it does not matter – in terms of employment and the welfare of market participants – whether an employment tax is the legal liability of employers (thereby reducing the demand for employees) or the legal liability of employees (thereby reducing the willingness of people to work).

[10] The dollar amounts in Table 1 are in 2014 dollars. See Mulligan (2014b, Chapter 4) for further details.

definition, a silver plan's full premium finances 70 percent of expenses and is therefore $12,110 per year. However, because the employee has a family income subject to tax of 147 percent of the federal poverty line (the employee is the sole earner in a family of four), the ACA caps premiums for the second-cheapest silver plan at 3.9 percent of their income subject to tax, or $1,379 per year. The other $10,731 is paid by the U.S. Treasury to the insurer as an advance premium tax credit.

By design, the silver health plans have lower premiums and greater out-of-pocket costs (deductibles, copayments, etc.) than the typical employer plan. That design feature is visible in Table 1 because exchange plan out-of-pocket costs total $5,190 rather than the $3,000 of out-of-pocket health expenses associated with ESI. However, because the employee's family is at 147 percent of the poverty line, the employee gets an 80 percent discount on the out-of-pocket expenses, with the remainder paid by the U.S. Treasury to the insurer as a cost-sharing subsidy.[11]

After health and work expenses, the part-time employee makes $28,854 per year, which exceeds the full-time income ($27,021) after health and work expenses! Table 1 does not show the employee payroll and personal income taxes, but those would be the same for the full-time and part-time employee because the amount of the income subject to the two taxes is, in this example, independent of full-time status. Thus, the part-time employee makes more after taxes, health expenses, and work expenses.

None of Table 1's results reflects the ACA's employer penalties because the comparison shown is for positions at employers that are offering affordable coverage to their full-time employees, whereas the penalty applies to large employers that are not offering affordable coverage. But Table 2 illustrates how the penalty can be as prohibitive as the implicit full-time employment tax is.

Large employers not offering coverage and having more than 49 full-time employees in 2016 will, as a consequence of the employer penalty, owe $2,166 per year for every full-time employee they add to their payroll. Small employers (as defined by the ACA) do not owe penalties, but the status of being a small employer itself depends on the number of employees.

Three possibilities are itemized in Table 2, for employers without any part-time workers. The first row represents employers with fewer than 49 employees, who can hire one more full-time employee without owing a penalty. The third row represents employers with 50 or more employees, who would add the aforementioned $2,166 to their penalty liability if they hired one more full-time employee, as shown in the Table's middle column.

The middle row represents employers with exactly 49 employees. For them, the penalty cost of hiring just one more full-time employee is at least $43,320. In other words, an employer that is paying no penalty still faces the threat of at least $43,320 in penalties, in addition to an

[11] In other words, the silver plan with cost-sharing subsidies limits average out-of-pocket charges to 147-percent-of-poverty families to 6 percent of the average total expenses of $17,300. The cost-sharing subsidy that achieves this limit is shown in Table 1's row (11): $4,152.

employee's normal salary and benefits, for hiring his 50th full-time employee![12] The sharp disincentive at crossing the large-employer threshold is one reason why the labor market disincentives of the employer penalty loom large relative to the amount of revenue to be obtained from the penalty.[13]

A second reason that the disincentives associated with the employer penalty are surprisingly large is that each $1,000 of penalties is more expensive than each $1,000 of employee salary because the penalties are not deductible for the purposes of determining the employer's business income taxes.[14] At a marginal business income tax rate of 39 percent (federal and state combined), $2,166 worth of penalties reduces the employer's bottom line the same as adding $3,298 to an employee's salary. The salary equivalents of the marginal penalties are shown in the final column of Table 2.

The economic significance of each $1,000 of FTET is related to each employee's wage rate. Low-wage employees need to work more hours to create $3,298 worth of value for their penalized employer (or, in the case of the implicit FTET, to earn enough after-taxes to make up for premium assistance that is forgone on the basis of employment status) than high-wage employees do. To put it another way, $3,298 is a larger percentage of a $20,000-per-year employee's salary than it is of a $200,000-per-year employee's salary. In the former case, FTETs create particularly strong incentives to rearrange work schedules in order to reduce the amounts of penalty paid or subsidies forgone.

One way to evaluate the economic significance of FTETs is to convert them into hours per week by dividing weekly dollar amounts by an estimate of each worker's hourly compensation. Take, for example, a worker experiencing a $100 weekly FTET (specifically, this is the weekly salary equivalent of the exchange subsidies that she forgoes because of her employment status). Her job compensates her $20 per hour, then it takes her 5 hours to earn $100. I refer to the 5 hours per week as the "hour equivalent" of her FTET.

Mulligan (2015) uses Current Population Survey (CPS) data to make such a conversion. Individual-level results vary widely, and differ from the $100 example above, because individual situations vary. Table 3 attached to my testimony is reproduced from Mulligan (2015), and

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[12] I have not yet seen the IRS forms for submitting penalty payments, and therefore do not know at what point in the calculation penalties are rounded to the nearest dollar. There are other reasons why the marginal cost of crossing the large-employer threshold can differ from $43,320. One complication is the look-back provision: large-employer status is based on employment in the year prior to the coverage year, whereas the penalty amount is based on employment in the coverage year itself. For example, the consequence of adding the one employee to the payroll in 2015 that puts the employer over the large-employer threshold could be $216,632 for 2016 if the 2016 payroll is going to have 130 full-time employees. Another consequence of the look-back provision is that part of the penalty serves as a tax on work hours rather than full-time employment, because the look-back refers to full-time-equivalent employees rather than full-time employees. For simplicity, my testimony ignores the look-back provision and discusses large-employer status as if it were determined in the coverage year on the same basis as the penalty amount.

[13] Specifically, the especially sharp disincentive comes from the fact that the law collects no penalty revenue from small employers.

[14] Sections 4980H(c)(7), as amended by the ACA, and 275(a)(6) of the Internal Revenue Code of 1986. The conversion from penalty amount to salary equivalent is obtained by dividing by 1.0765 (representing employer payroll taxes) and then dividing again by one minus the employer's marginal business income tax rate.

summarizes the typical amounts in the working population. The columns are different methods of quantifying "typical." The rows differ according to the form of the FTET (penalty versus the implicit FTET from the withholding of subsidies), whether workers not directly experiencing FTETs are included in the population (final row) and, whether, from a worker's perspective, exchange subsidies are worth the same as an equivalent amount of cash.[15]

The top row of the table shows that, among people working for an employer not offering coverage, the employer penalty is typically equivalent to the amount of salary generated in about four hours per week of work for every week of the year. The second row shows that the exchange subsidies forgone by workers solely because they have a job and their employer offers them coverage are typically equivalent to the amount of salary generated by 7.5 to 10.5 hours per week of work (that is a full day, or more) for every week of the year.

The second row of Table 3 also helps put Table 1's example in the context of the actual situations experienced by the nation's workers. In Table 1, the exchange subsidies are equivalent to more than 12 hours per week, which is why the worker can have more to spend by cutting his schedule by 11 hours per week. 12 hours per week is somewhat more than the averages shown in Table 3's second row. Therefore, while there are millions of workers who are like the one shown in Table 1 in that part-time work offers more net pay than full-time work (Mulligan 2014b, Table 4.9), there are even more workers for whom the ACA significantly reduces the financial reward to full-time work without fully eliminating it.

Table 3's bottom row shows the typical FTET amounts for all workers, including the slim majority (54%) of workers who will not directly experience either of them.[16] Still, the average amount for the entire workforce is equivalent to at least 2.5 hours per week, which is six percent of a 40-hour schedule. In other words, the ACA's FTETs together have a lot in common with a six percent tax on all full-time employment.

Figure 1 summarizes the economic importance of three major disincentives that came with the health reform. The first is the implicit full-time employment tax that comes from the fact that most full-time jobs automatically prohibit people from getting the law's new assistance. The middle is the employer penalty, and the last represents the implicit income taxes that come from the fact that assistance is phased out on the basis of a family's income.

The black bars are showing the percentage of workers who will directly experience each tax.[17] If you add the black bars together, and adjust for a bit of double counting because some workers will experience multiple of the taxes, you get 46% of the workforce.

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[15] The bottom three rows of the table assume that workers value exchange coverage at 75% of the plan's unsubsidized premium.

[16] Workers offered coverage by their employers and living in families with incomes above 400 percent of the poverty line are a primary example of workers who would not be able to get exchange subsidies merely by changing their employment status.

[17] Such workers either work for a penalized employer, work for an employer whose growth would be subject to especially large penalties (recall the middle row of Table 2), receive means-tested assistance that was created by the ACA, or forgo that assistance solely because of their employment status.

The red bars show the average amount of the tax among the workers who will face it. For comparability, I have converted all of these taxes to a percentage of median full-time earnings.

The percentages are large. For this 46% of the workforce, the ACA's disincentives are of the magnitude of the entire payroll tax, except that the ACA's disincentives are not replacing the payroll tax but rather adding to it.

The ACA also contains provisions that, in some circumstances, encourage work and earning. An example is an increase in the incentive to earn above the poverty line rather than below it, created by the ACA's provision that the new exchange subsidies are not available to families living below the poverty line. The ACA also has provisions expected to reduce uncompensated care costs, and health care costs overall. These may also create some new incentives to work and earn. However, these various incentive-creating provisions can be measured on the same scale that this testimony measures the ACA's FTETs and its implicit income taxes. Doing so, Mulligan (2014b, Table 9.1) finds that the ACA's incentives are, in combination, an order of magnitude less than the ACA's disincentives. As a result, the provisions examined in my testimony (namely, the three types shown in Figure 1) also accurately represent the combined effect of several additional ACA provisions, including those that might encourage work.

III. The Likely Economic Consequences

It is too early to directly measure the labor market consequences of a fully phased-in ACA. First, the employer mandate was not enforced in 2014, and is only partially enforced this year. Second, participation in exchange plans is still low, due in part because the penalty pursuant to the individual mandate will not reach its full amount until next year, and also the problematic 2014 rollout of the exchanges themselves. Third, 2014 was the first year in some time that the Emergency Unemployment Compensation (EUC) program was not operating, and the expiration of EUC introduces incentives that offset some of the ACA's disincentives.[18]

But the ACA is not the first time that taxes have been changed or created. Historical episodes of tax changes give us an idea as to the likely effects of new tax changes. These episodes, as synthesized in meta-analysis of micro-econometric studies, are the basis for the estimates provided here.

The estimates here are limited to the long-run effects of the ACA's disincentives on employment, hours, and productivity. It is limited to long-run analysis in the sense that market

[18] See Mulligan (2012, Chapter 3), Mulligan (2014b, Chapter 9), and Hagedorn et al (2015). It has also been asserted (Sanzenbacker (2014) and the Department of Health and Human Services, as quoted by Contorno (2013)) that the national labor market effects of the ACA will be essentially the same as the statewide labor market effects of Massachusetts 2006 health reform, but in fact the two health reforms differ by at least an order of magnitude in terms of the labor market disincentives created (Mulligan 2014b, Chapter 10).

participants are assumed to understand and adapt to the new taxes, that market prices are assumed to be flexible, and workers are mobile.[19] I begin with a discussion of the relationship between FTETs and employment taxes, largely because the two have much in common and employment taxes have been more widely studied. I then discuss effects of the FTETs on weekly hours per employee and on output per hour.

Fully phased in, the ACA is likely to permanently reduce weekly employment and aggregate work hours three percent, and national income two percent, below what they would have been if the law had not been passed.

III.A. Employment rates

Suppose for the moment that hours per week were a fixed characteristic of a worker, perhaps based on her occupation or family situation, so that the only real choice in the labor market is the number of workers on the payroll each week. In this case, the FTETs would just be employment taxes and thereby reduce the weekly employment rate. When combined with its income taxes, the ACA would be reducing the average weekly employment rate by about three percent below what it would have been without the ACA (Mulligan 2014b, Chapter 6).

The effects on employment vary by sector and type of worker because the amount and economic significance of the FTETs also vary in these dimensions. The ACA disproportionately taxes large employers, low-skill employees, full-time employees, near-elderly employees, and employees heading large families (Mulligan 2015). The ACA also differentially taxes employers offering coverage, although the direction of the difference varies by type of employee.

I presume that, in the long run, employees are free to choose employers on the basis of size and benefit offerings. This does not mean that everyone avoids the implicit and explicit employment taxes, just that employees who avoid them pay for the privilege of doing so in the form of lower wages. In effect, all employees of the same skill, age, work schedule, and family composition face an employment tax regardless of the type of employer they have, as if the ACA's FTETs had been uniform by type of employee in an amount equal to the average FTET.[20]

Of course, a sector-specific tax reduces the size of the taxed sector. However, the fact that employment shifts away from sectors that are more heavily taxed does not mean that the aggregate employment effect is small. As long as a few workers remain on the margin between

[19] Most of the "long-run" effects should be present within about four years of 2014 (the first year of the exchanges). Over a longer time frame, health and other human capital effects of the law would be important and, as noted at the outset, are excluded from my analysis. At the time of writing, I am unsure of the direction of the net effect of the ACA on health: see, for example, Cole, Kim and Krueger (2012).

[20] This is the theory of equalizing differences (Rosen 1986), and has been an important part of tax incidence theory (Harberger 1962).

the taxed and untaxed sectors, workers in the untaxed sector are induced to work less because the tax reduces their wages.[21]

III.B. Weekly work hours

Jed Graham (2014) has documented hundreds of instances in which employers say that they will cut jobs or work hours in response to the ACA. Particularly salient are the stories of workers to be put on 29-hour weekly schedules so that they are deemed part-time workers (and thereby penalty free) by the ACA. My analysis agrees that the ACA will make 29-hour schedules far more common than they used to be. However, these are schedules that often would have been less than 35 hours without the ACA.[22] A complete analysis must also consider the ACA's effect on the schedules that most jobs have: 40 hours or more.

In a few instances of low-wage jobs, 40-hour schedules may be reduced to 29, because part-time work is one way that FTETs can be avoided. But the other way that FTETs can be avoided is fewer workers overall. My analysis suggests that the far more common adjustment to FTETs will be fewer employees each of which has a somewhat *longer* weekly schedule in order to make up for *part* of the work and income lost due to reduced employment. In other words, FTETs increase the *inequality* of work schedules – with relatively short schedules getting shorter and relatively long schedules getting somewhat longer – but may have little effect on the *average* weekly hours worked by those who are employed.

A conventional wisdom says that employment rates increase to fully "compensate" for work hours lost from taxes on full-time schedules. Under this view, more people working 29 hours rather than, say, 34, would mean that employers simply have to hire more or keep workers on the payroll longer in order to accomplish the tasks necessary to conduct their business. The conventional wisdom fails in two ways. As noted above, full-time employment taxes can be avoided by reducing employment and *increasing* hours per employee.

Moreover, even if full-time employment taxes were avoided by reducing weekly work hours, there would not be a commensurate increase in the employment rate because weekly hours would not be reduced for normal business or personal reasons, but rather to avoid penalties and implicit taxes. The penalties and implicit taxes make the business of an employer more expensive, or being an employee less rewarding, even in those cases when people avoid the new tax by adjusting their employment conditions rather than writing a check to the federal treasury.

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[21] This is why I disagree with the Congressional Budget Office's (2014, p. 120) conclusion that "the cost of forgoing exchange subsidies operates primarily as an implicit tax on employment-based insurance, which does not imply a change in hours worked." Because of compensating differences in the labor market, their conclusion does not follow from CBO's premise that "the tax can be avoided if a worker switches to a different full-time job without health insurance (or possibly two part-time jobs) or if the employer decides to stop offering that benefit." In other words, the avoidance behaviors cited by CBO have costs that reduce the net benefits of employment generally.

[22] Note that the ACA and the Bureau of Labor Statistics (BLS) have different definitions of full-time work. Changing 34-hour schedules to 29-hours is considered a change from full time to part time by the former definition, but a change from part time to part time by the latter definition. For this reason, BLS data will not show much of the ACA's effects on work schedules, even when the law is fully phased in (see also Casselman (2015)).

Some employers may go out of business, or never start their businesses in the first place, because of the extra cost of the tax (or the costs of adjustments needed to avoid the tax) or because of the additional costs (e.g., higher wages) needed to attract workers to positions that render them ineligible for exchange subsidies. The net result is that the labor market will involve fewer total hours, and that higher employment rates, if any, will not be enough to compensate for the reduced hours per week. This economic reasoning has been confirmed by empirical studies of previous public policies that raised the relative employer cost of weekly work hours, and failed to create a commensurate increase in employment because the average hour worked by employees had been made more expensive or less productive.[23]

My estimates suggest that the ACA's two opposing effects on weekly work hours among employees will offset on average, so that the fixed-weekly-hours thought experiment discussed above is a good description for the purposes of understanding the law's effects on overall averages. In particular, I estimate that the ACA will reduce the nationwide weekly employment rate and aggregate hours worked by about 3 percent below what they would have been without the ACA.[24]

III.C. Productivity

The Affordable Care Act has several effects on productivity (which refers to the value created in the economy per hour worked) and therefore several effects on average wages.[25] Households and businesses sacrifice productivity in order to rearrange activities for less of a tax burden. These include excessive part-time work, segregation of low-skill and high-skill employees, constricting large employers in order to expand small ones, and failing to invest as much in business capital.[26]

Take the case of small versus large businesses. Each type of business has its own advantages. Large businesses can be more bureaucratic and its leaders have a greater challenge digesting and organizing the large number of activities in their establishment. But large businesses enjoy economies of scale in other things, such as marketing, the use of specialized

[23] See especially the book by Hart (1987) and the literature surveyed by Hamermesh (1996a, Chapter 3) and Hamermesh (1996b, pp. 106-7). See also Garicano, Lelarge and Van Reenan (2013) who show how employment taxes increase hours per employee.

[24] See Appendix II for a more detailed demonstration of why the employment effect is 3 percent (in the direction of less employment) rather than, say 1 percent or 10 percent. The 3 percent estimate is an impact and not an estimate of the employment rate change between, say, 2012 (before the exchanges and penalties took effect) and 2016. Non-ACA factors, such as the aging of the workforce and the expiration of the Emergency Unemployment Compensation program, have also been changing between 2012 and 2016.

[25] Value added refers to the market value of the various types of production that occur in the economy net of interbusiness transactions (that is, when one business' production is part of the materials or services that another business uses to produce). Although the term value added is sometimes used synonymously with "production," the former depends not only on the physical quantities of items produced but also on the value of all of that production as measured by the price the final consumer pays. This distinction is important because one of the consequences of the ACA can be to increase the frequency of transactions with relatively little value at the expense of other transactions that would be more valuable.

[26] In technical jargon, these are the kinds of "misallocation" effects on productivity emphasized by Restuccia and Rogerson (2008) and Hsieh and Klenow (2009)).

and expensive equipment, and providing a wider range of benefit options to their employees. Their distinct advantages allow small and large businesses to coexist in the marketplace, and encourage them to take on the types of activities that profit most from their advantages. Absent taxes and regulations, the marketplace allocates activity between small and large businesses to maximize total value to customers, employees, and owners, thereby balancing the value of large businesses' advantages with the costs of their disadvantages.

Starbucks, which has thousands of coffee stores most of which are company owned, coexists in many markets with independent coffee shops and with franchised coffee shops like Dunkin Donuts.[27] The consumer market for coffee is thereby continually allocating employees, materials, and customers between these types of shops on the basis of location, employee preferences, and consumer preferences. The market at one location may support a Starbucks rather than the others because Starbuck's upscale product or familiar brand especially appeals to the customers in that area, or employees especially appreciate the benefits of working for Starbucks. At the same time, an independent shop may be located in another place where the owner is especially familiar with the local area's customers or employees appreciate a small business working environment rather than a corporate one. These are examples where the market is creating value for customers and employees by featuring a mix of suppliers. Forcing (that is, without the consent of any of the market participants) one type of shop to be replaced by another type would destroy some of that value.

The Affordable Care Act does not literally force coffee shops to change type, but its penalties and subsidies give a strong push that is unrelated to the fundamental customer, employee, and owner preferences in that marketplace. The employer mandate pushes small employers to replace large ones, for example an independent shop to replace one of the Dunkin Donuts locations owned by a multi-unit franchise because the latter is handicapped by the costs associated with the employer mandate.

Although Starbucks was already offering health insurance to its employees, this offer had conferred the company with a well-earned competitive advantage in the market for employees, and the health reform erodes some of that advantage. In this way, the health reform might also cause an independent shop to replace a Starbucks location, or an independent shop to start in a location where a Starbucks would have without the health reform.

Law-induced changes like these affect productivity, and generally in the direction of less productivity unless the market had previously failed to have enough of the subsidized businesses and had too many of the penalized ones. Activity moves away from large business and toward small business despite the lost productivity because the activity is moving to avoid the ACA's employer penalty. The managers of these businesses do not maximize productivity per se, but rather what they produce net of penalties, taxes, and other costs.

[27] Jargon (2013) and Dunkin' Donuts (2014) describe ownership structures for Starbucks and Dunkin' Donuts, respectively. Of course, Dunkin' Donuts sells more than just coffee.

Not all of the labor reallocations induced by the ACA reduce productivity. The ACA's subsidies will induce, among other things, a segment of the population to move from employer-sponsored coverage (ESI) to individual coverage, and my analysis accounts for the fact that some of them will raise the nation's productivity by doing so because it was inefficient for them to have ESI in the first place (they were sacrificing productivity in order to enjoy the longstanding tax-avoidance advantages of ESI). For example, absent the ACA there may have been too many Starbucks locations and not enough independent coffee shops because Starbucks is an ESI employer (Starbucks 2014) whereas the independent shops typically are not. Perhaps such instances of productivity gain should be interpreted as the purported ACA-induced surge in entrepreneurship that has been advertised as a labor-market benefit.[28] However, this benefit has to be put in the context of the subsidies involved: both the amount of the subsidies that were suppressing entrepreneurship in the first place, and the amount of the subsidies that are being used to get people to give up their ESI. Moreover, "entrepreneurship" is by no means the only margin on which the ACA operates; among other things, its employer penalty encourages part of the population to give up its individual coverage and get ESI instead![29] A comprehensive productivity analysis has to consider the productivity-reducing forces together with the productivity-increasing ones.

ACA-induced reallocations are not limited to coffee shops or even to substitution between large and small firms because the ACA affects incentives in many other dimensions of business behavior. Including the productivity effects of the employer penalty and the exchange subsidies, the overall productivity effect is 0.9 percent in the direction of less productivity Mulligan (2014b, Chapter 8). In the long run, workers are paid according to their productivity, so 0.9 percent less productivity by itself means wages will be 0.9 percent lower.

The ACA will also distort the way that productivity is measured, giving the appearance of more productivity than there really is. The FTETs likely change the composition of the workforce because they are more significant for low-skill workers. All else the same, a workforce that excludes low-skill workers appears to be more productive. People and businesses may also misreport hours worked (or manipulate their measurement, or at least be careful to avoid accidentally over-reporting work hours) so that the employer avoids a penalty or the employee remains eligible for exchange subsidies. Misreporting hours and incomes is not necessarily an alternative to genuine adjustments of hours and incomes, especially if misreporting has limits and the ACA's income or employment taxes are still experienced by workers who misreport. But the misreports would give the (false) impression that workers have become more productive, because productivity is measured as output per reported hour worked.

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[28] Over 300 economists wrote to Congress urging them not to repeal the ACA, asserting, among other things, that "reform-induced expansions in insurance coverage would spur many talented Americans to launch their own companies" (Cutler, et al. 2011). See also Bailey (2013), Gruber (2009), and Council of Economic Advisers (June 2009, p. 38).

[29] Workers who pick up the ESI will tend to be more skilled than those who drop it for individual coverage, so the ACA may end up reducing the average quality of entrepreneurs, if the word "entrepreneurs" is how we describe workers without ESI.

III.D. Misperceptions about tax effects

It is sometimes claimed, by non-economists at least, that the safety net does not prevent anyone from working because everyone strives to have more income rather than less, and would gladly take any available job that paid them more than the safety net did. This "income maximization" hypothesis is contradicted by the most basic labor market observations, not to mention decades of labor market research.

Before the recession began, over 80 million American adults were not working. To be sure, some of them could find no reward in the labor market and would be stuck without gainful employment no matter how lean the safety net got. But many others were not working by choice. You probably know skilled stay-at-home mothers or fathers who could readily find a job but believe that the net pay from that job would not justify the personal sacrifices required. They are examples of people who deliberately do not maximize their income. Other examples are people who turn down an out-of-town promotion in order to avoid relocating their families, and workers who eschew higher paying but less safe occupations. Earning income requires sacrifices, and people evaluate whether the net income earned is enough to justify the sacrifices.

When social programs pay more to people not working, the sacrifices that jobs require do not disappear. The commuting hassle is still there, the possibility for injury on the job is still there, and jobs still take time away from family, schooling, hobbies, and sleep. But the reward to working declines, because some of the money earned on the job is now available even when not working.

A related fallacy is that employees would do absolutely anything to avoid a layoff, regardless of the amount that layoffs are subsidized. It is true that employers sometimes experience reductions in demand from their customers, as auto manufacturers and home builders did early in the recession. But layoffs are not always the inevitable result. Employers and employees might be able to adapt to less demand by work sharing (Baker 2011), reducing prices charged to customers, reducing wages, or have pursued a less cyclical line of business in the first place. Heavy layoff subsidies, such as those created by the ACA, give them less reason to pursue the alternatives to layoffs (Topel and Welch 1980).

Decades of empirical economic research show that the reward to working, as determined by the safety net and other factors, affects how many people work and how many hours they work. To name a small fraction of the many studies: Hoynes and Schanzenbach (2012) show how potential participants stopped working or reduced their work hours when the food stamp program was introduced. Studies of unemployment insurance find that program rules have a statistically significant effect on how many people are employed, and how long unemployment lasts. Yelowitz' (2000) research shows how a number of single mothers found employment exactly when, and where, state-level Medicaid reforms increased their reward from working. Gruber and Wise (1999) and collaborators show how the safety net for the elderly results in less employment among elderly people. Autor and Duggan (2006) and the Congressional Budget Office (2010a) explain how the number of disabled people who switch from work to employment-tested disability subsidies depends on the amount of the subsidy relative to the

earnings from work. Murphy and Topel (1997) show how poor wage growth among less-skilled men helps explain their declining employment rates during the 1970s and 1980s.

Among the hundreds of labor market studies, two of them – Rothstein (2011) and Ben-Shalom, Moffitt and Scholz (2011) – have been misrepresented as showing that recession-era safety net expansions had no visible effect on employment. Ben-Shalom et al. (2011) looks at the pre-recession safety net, and thereby does not consider the safety net expansions that have occurred since then. Rothstein (2011) looks at the allowable duration of unemployment benefits, finding that benefit durations have a statistically significant effect on unemployment exits, but otherwise does not examine a single one of the many other safety net program parameters that were changing at the same time. Neither study considers layoff subsidies or what happens when marginal tax rates approach one hundred percent, as in my Table 1.

The direction and order of magnitude of the ACA's employment and aggregate hours impacts are clear, but their precise magnitudes depend exactly on how the labor market responds to taxes generally, and the ACA's taxes specifically. In terms of the general tax responsiveness, I assume that the labor markets of the future will continue to respond as they have in the past as micro-econometricians have measured from "natural experiments" and other historical instances of tax changes. It would be going much too far to conclude that taxes do not matter, but one could reasonably assert that somewhat less, or somewhat more, responsiveness to taxes is consistent with the historical evidence. In addition, the ACA's taxes are unique: the politically precarious employer penalty is highly nonlinear as to the size of the employer, and avoidance of the implicit full-time employment tax requires participating in the law's new health insurance plans. Hardly any historical tax has been truly uniform across workers, but some of the concentration of the ACA's taxes is novel.

I do not assume that everyone has, or even that most people have, an intimate understanding of tax incentives. I use the historical experience from actual tax changes experienced by actual people, however knowledgeable or unaware people were during those episodes. The real question is whether taxpayers will be less knowledgeable than they have been in the past.

People can also receive assistance and advice from others who are knowledgeable. Personal finance columnists began offering advice even before the exchanges opened in 2013 (Davidson 2013; Pender 2013), with headlines like "Lower 2014 Income Can Net Huge Health Care Subsidy." The federal and state governments have hired navigators—20,000 in California alone—to help people understand the exchanges and the application process (Bagley 2013). I also expect large employers to help their workers navigate the complexities of the ACA's health insurance plans. For example, Walmart is working "with a health coverage specialist to guide workers through the process of finding alternative coverage" (Tabuchi 2014).

IV. Conclusions

The bottom line is that helping people who cannot or will not purchase health insurance has a price in terms of labor market inefficiency. The ACA is no exception: it creates new income taxes and full-time employment taxes that will be directly experienced by about half of the workforce and indirectly experienced by essentially the entire nation. As long as incentives to work and earn remain far below what they were eight or nine years ago, we cannot reasonably expect the labor market to return to where it was back then. We cannot expect employment per capita to go back to where it was.

Nobel laureate James Tobin was a leading Keynesian economist and key adviser to President Kennedy, and pointedly described the large disincentives that sometimes come out of social programs. He said that they "caus[e] needless waste and demoralization.... It is almost as if our present programs of public assistance had been consciously contrived to perpetuate the conditions they are supposed to alleviate." (Tobin 1965, p. 890)

V. Appendix I: Subsidies and Penalties Together Tax Full-time Employment

Figure 2 illustrates some of the economic relationships between the ACA's employer penalties and the exchange subsidies by measuring how they depend on the monthly employment situation of nonelderly household heads and spouses.[30] A full-time worker for an "ESI" employer—that is, an employer that conforms to the employer mandate by offering employer-sponsored insurance coverage to its full-time employees—is ineligible for exchange subsidies. Every other kind of worker and nonworker is potentially eligible, which is why the pink subsidy bars appear only next to the top two employment situations in figure 2.[31] As noted above, the employer penalty applies to persons who work full time for a non-ESI employer (i.e., one that does not offer coverage), but not to any other kind of employee, which is why a black penalty bar appears only next to the top employment situation. Each employment situation's red star indicates the net subsidy, that is, the length of the subsidy bar (if any) minus the length of the penalty bar (if any).

The non-ESI full-time situation has a net-subsidy star close to zero ($623 per year, to be exact) because its penalty and subsidy bars are approximately equal. The ESI full-time situation has a net-subsidy star at exactly zero because neither subsidies nor penalties apply. But we cannot conclude that full-time employment is unaffected because the alternatives to full-time employment—namely, part-time employment or not working—receive a significant net subsidy. Figure 2's middle employment situation is the only one in the chart where the subsidy can be received without an offsetting penalty. By subsidizing without penalties all employment and nonemployment situations except full-time work, the ACA is creating a large hidden full-time employment tax.

[30] Figure 2 is reproduced from Mulligan (2014b, Chapter 4).

[31] The length of figure 2's pink subsidy bars is the salary equivalent of the average subsidy forgone among the 64 million workers who work full time for an ESI employer, including zeros in the average for many of them whose employment status is not the only reason for their subsidy ineligibility. The measurement and composition of this average is explained further below.

VI. Appendix II: Why 3 Percent Less Work?

The ACA will likely reduce the amount of labor used in the economy because, as explained above, labor is what the ACA is taxing. The law is creating a new set of subsidies that reduce work incentives as they are financed from taxpayers (e.g., employer-penalty payments) *and* as they are distributed to beneficiaries. The logic of supply and demand tells us that when we tax something we get less of it.[32] Because the size of the effect depends on the size of the tax, the bottom line from Table 3 is critical: the ACA increases average full-time employment tax (FTET) rates by more than 2 hours per week. In addition, the ACA increases average income tax rates by 1.9 percentage points.[33]

In order to translate the tax amount estimates into a simple but rough estimate of the law's overall impact on the amount of work in the economy, let's assume for the moment that weekly work hours are a fixed characteristic of a worker, perhaps based on her occupation or family situation, so that the only real choice for workers is the number of weeks that they are at work. In this case, the FTETs have no direct effect on part-time workers because those workers pay the same FTET amount regardless of how many weeks they work: zero. For full-time employees, who are about 83 percent of all employees, the FTETs are simply an employment tax because, by assumption, not working is the only way that such employees can avoid it.

Because the FTETs amount to 5.4 percent of a full-time schedule for full-time workers and zero for part-time workers (the remaining 17 percent of the workforce), the FTETs are, on average, of the same magnitude as a 4.5 percent employment tax on all employees, as derived in rows (1)–(3) of table 4.

Row (4) is the average implicit income tax rate created by the ACA. This income tax is in addition to the FTETs. Altogether, the ACA taxes plus the non-ACA taxes of 25 percent add up to 31.3 percent. According to this calculation, the average 2016 worker under the ACA keeps 68.7 percent of what he earns at the margin, as compared to the 75.0 percent that he would have kept if the ACA had not been passed. This is a 6.3 *percentage point* reduction in the reward to work, which is 8.8 percent of the reward to work itself.[34]

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[32] In theory a tax on labor might not reduce labor in the long term because of a large aggregate income effect of taking resources away from households (e.g., to fight a war). However, the offsetting income effect is not applicable to the ACA because the taxes in that law are used to finance redistribution: government transfers and/or purchases that are close substitutes for private purchases. In this regard, the ACA's effects on the amount of labor have a lot in common with the effects of a negative income tax.

[33] 1.9% is the product of the heights of Figure 1's last black bar and its last red bar.

[34] To be exact, 6.3 percentage points is 9.2 percent of 68.7 and 8.5 percent of 75.0; the −8.8 percent shown in table 4's row (8) is essentially the average of these two.

The final estimation step is to approximate the direction and amount of the impact of an 8.8 percent reduction in the reward to work on the aggregate amount of work. Both everyday experience and extensive labor economics research has shown that, when labor taxes reduce the economic rewards that work generates for employers and employees, some of them respond to taxes by creating, retaining, and accepting fewer jobs. Obviously a great many people would not quit their job, shut down a business, or reduce work hours in response to a tax because the gains or "surplus" they get from working and producing far exceed the tax amount. But it's wrong to conclude that all people and businesses have a surplus from working that is large enough to withstand all of the ACA's taxes.

The logic of supply and demand therefore predicts that the ACA will reduce the average amount that people work by moving some of the low-surplus workers, some of the time, from working to not working. Before the Affordable Care Act was passed, much evidence had accumulated as to the effects of labor taxes on the amount of labor used in the economy. This evidence ranges from income tax reforms to household experiments to country comparisons to the rollout of social programs with implicit taxes. Unemployment benefits are an example of an implicit employment tax, and one that has been well studied.[35] Unemployment benefits reduce labor supply both by discouraging unemployed people from returning to work (Krueger and Meyer 2002) and by encouraging layoffs (Topel and Welch 1980). Although economists continue to gather new data and reconcile the variation in results among historical studies, the evidence is also starting to show roughly the amount that labor is reduced with every unit by which taxes reduce the reward to work. From a slightly conservative reading of all this (that is, leaning in the direction of less responsiveness), I assume that aggregate hours worked fall, in the long run, about 0.36 percent for every 1 percent that taxes reduce the economy-wide average reward to working, including both the substitution effect and the aggregate income effect of the taxation.[36]

The 0.36 reward coefficient is entered in table 4's row (9). Multiplying it by the ACA's impact on the reward to work (row (8)), the reward coefficient is enough to give us an estimate of the ACA's percentage impact on aggregate work hours. That product is shown in the final row of table 4 and says that the ACA will reduce aggregate work hours 3.2 percent below what aggregate hours would be without the ACA.

[35] One difference between the ACA's FTETs and unemployment benefits is the treatment of people out of the labor force: they are eligible for ACA subsidies but not unemployment benefits.

[36] This conclusion is for tax revenues that are spent on transfers or on goods and services that are close substitutes for household spending. Mulligan (2014b) explains how I use Chetty et al.'s (2011) survey and synthesis of the micro-econometric literature to estimate the reward coefficient.

Although the 3.2 percent estimate assumes uniform taxation, it does not imply that the responses to taxation are uniform. The 0.36 reward coefficient reflects the historical-average response to taxes, which includes large responses by some people and small—often zero—responses by others. It is both a logical fallacy and inconsistent with the historical evidence to conclude from instances of zero response that the average response is also zero. Table 4 says that 3.2 percent of the work that would have been done without the ACA will not be done; the other 96.8 percent of work will continue even under the law. For many of the same reasons that the vast majority of people who work will continue to do so even during severe recessions, the vast majority of people who work will continue to work despite the ACA's disincentives.

To be clear, table 4 is just an illustration that takes a number of shortcuts so that the result can (a) be understood with just simple arithmetic and (b) have its ingredients limited to just the essential economic forces. Table 4 assumes fixed weekly work hours, uniform taxation, and fixed worker productivity at the margin despite the reduced amount of labor supplied. Mulligan (2014b, Chapter 6) relaxes these assumptions in order to obtain more accurate estimates, which turn out to be remarkably close to the 3.2 percent reduction in aggregate work hours shown in table 4.

Table 1. The ACA's Implicit Tax on Full-time Work: An Example

Positions offered in 2016 by employers offering health insurance only to full-time employees.
All dollar amounts are annualized 2014 dollars.
Subsidies are calculated for a family of four with one earner.

Job attributes	Full-time position	Part-time position	
Health insurance source	Employer (ESI)	ACA exchange	
Employee costs			
weekly hours worked	40	29	(1)
weekly work expense	$100	$75	(2)
Employer costs			
hourly cost	$26	$26	(3)
annual cost	52,000	37,700	(4) = 50*(3)*(1)
employer payroll taxes	2,679	2,679	(5) = [(4)-(6)-(7)]*0.0765/1.0765
Health insurance premiums			
employer	11,154	0	(6) = 78% of total premium (ESI only)
employee, excluded from tax base	3,146	0	(7) = 22% of total premium (ESI only)
employee, included in tax base	0	1,379	(8) = 3.9% of (12)
ACA	0	10,731	(9) = 70% of total health expenses - (8)
Out-of-pocket health expenses			
employee	3,000	1,038	(10) = 17% (6%) of total ESI (exch.) expenses
ACA	0	4,152	(11) = (3/7)*[(8)+(9)]-(10)
Employee income subject to tax			
total	$35,021	$35,021	(12) = (4) - (5) - (6) - (7)
ratio to federal poverty line	1.47	1.47	(13) = (12)/23850
after health & work expenses, annua	$27,021	$28,854	(14) = (12) - (8) - (10) - 50*(2)

Notes: Both types of employees work 50 weeks per year (see rows (4) and (14)). The ACA exchange plan is assumed to be a silver plan (70% actuarial value). Neither employee type is subject to the employer penalty.

Source: Mulligan, Casey B. "The Affordable Care Act and the New Economics of Part-time Work." George Mason University, Mercatus Working Paper, October 2014a.

Table 2. The distribution of marginal penalty amounts among employers not offering coverage

Coverage year 2016.

Number of full-time employees	Penalties triggered by hiring one more full-time employee	
	amount	salary equivalent
< 49	0	0
49	$43,320	$65,970
50+	$2,166	$3,298

Notes: "Penalties triggered" refers to the impact of an additional hire on the employer's annual penalty. The table assumes zero part-time employees and ignores the "look back" for determining large-employer status. The salary equivalent assumes a 39% business income tax rate and a 7.65% employer payroll tax rate.

Source: Author's calculations for the Joint Economic Committee.

Table 3. Estimators of the various hour-equivalent FTETs

	Estimator of the average hour equivalent		
Type of full-time employment tax	Mean ratio, with individual wage in the denominator	Mean ratio, with demographic wage in the denominator	Median ratio, with individual wage in the denominator
Employer penalty, conditional on employer not offering coverage	4.3	3.9	3.9
Full amount of exchange subsidy, conditional on positive subsidy	10.5	9.7	7.5
Value of exchange subsidy (25% features discount), conditional on positive subsidy	7.5	6.8	4.7
Either FTET (25% features discount), conditional on positive FTET	5.9	5.4	4.3
Either FTET (25% features discount), entire population	2.7	2.5	0.0

Note: The hour equilavent of a tax is the number of hours to be worked each week in order to generate enough employee compensation to pay the tax.

Source: Mulligan, Casey B. "The New Full-time Employment Taxes." *Tax Policy and the Economy*. Volume 29. Forthcoming, 2015

Table 4. The ACA's impact on aggregate hours: first-order considerations

The long-term impact of the ACA parameters for calendar year 2016

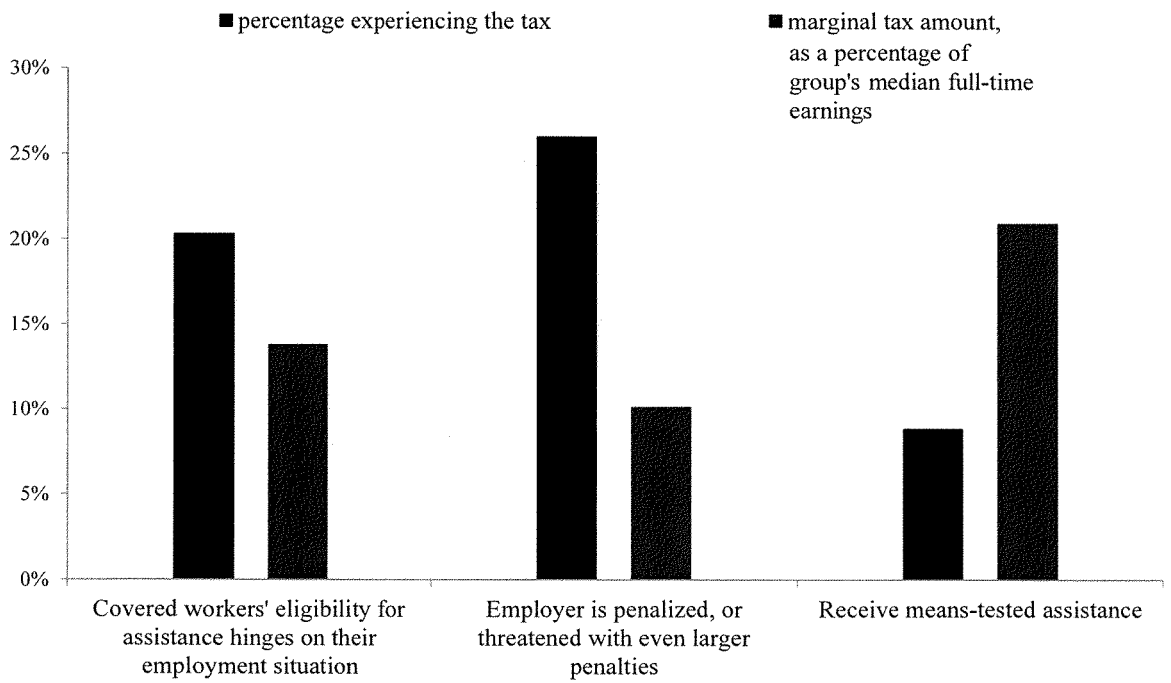
	Without the ACA	With the ACA	Row number and source
Tax incentives for the average worker			
Fraction of workers who are full-time, weeks weighted	0.83	0.83	(1) March 2012 CPS. Full-time = 35+ hours
Full-time employment tax as a % of full-time schedule	0	5.4%	(2) Mulligan (2014b, Table 5.2)
Employment tax as a percentage of full-time schedule	0	4.5%	(3) = (1)*(2)
Implicit earnings tax rate	0	1.9%	(4) Mulligan (2014b, Table 5.2)
Non-ACA marginal earnings tax rate	25.0%	25.0%	(5) Mulligan (2014b, Table 5.2)
All tax rates combined	25.0%	31.3%	(6) = (3) + (4) + (5)
Percentage of earnings kept at the margin	75.0%	68.7%	(7) = 100% - (6)
ACA's impact on the percentage kept at the margin	**-8.8%**		(8) = [row (6) ACA - non-ACA]/[row (6) avg.]
Aggregate hours effect of tax incentives			
reward coefficient	0.36		(9) Micro-econometric literature on tax effects
ACA's impact on aggregate hours	**-3.2%**		(10) = (8)*(9)
	first-order approximation		

Notes: The table presents a first-order approximation of the impact of the ACA, as parameterized in 2016, on aggregate work hours in the U.S. Its purpose is to just highlight the main economic determinants of that impact. The best impact calculations are later in this chapter and in the chapters that follow.

The employer penalty is 2.2 percentage points out of the 4.5 percentage points reported in row (3). The remaining 2.3 percentage points are from the implicit FTET.

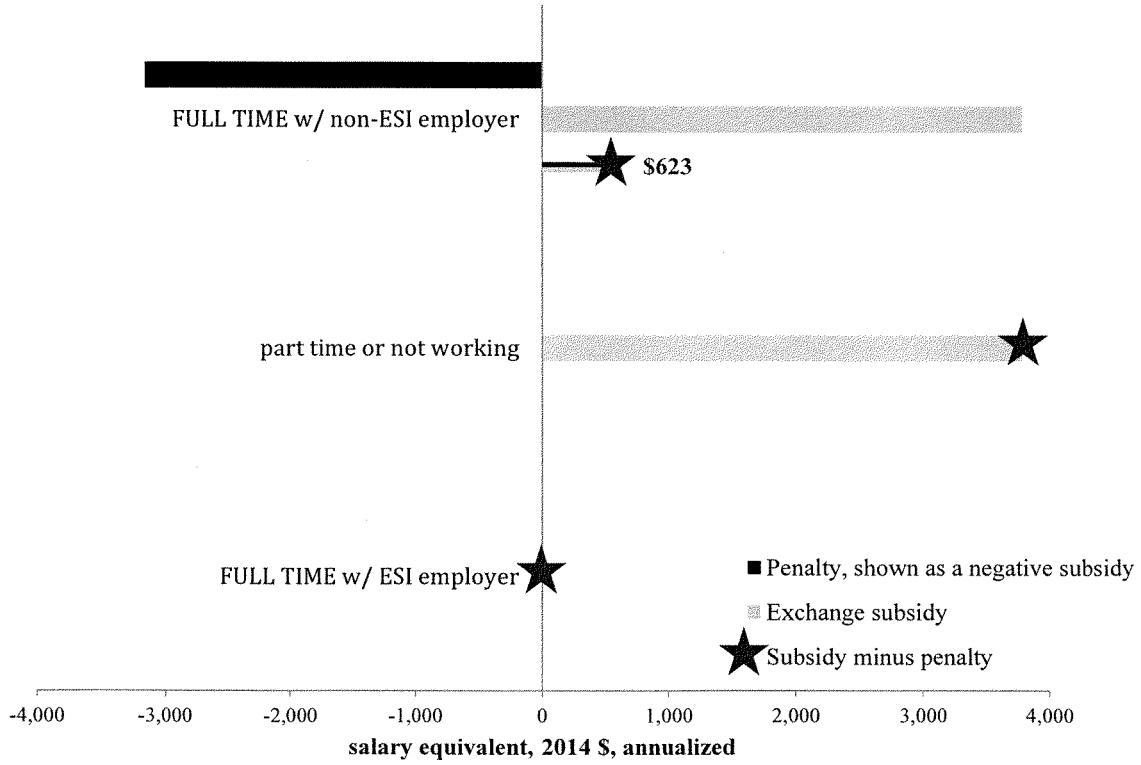
Source: Mulligan, Casey B. *Side Effects: The Economic Consequences of the Health Reform*. 2014b, Kindle edition.

Figure 1. The size and prevalence of the ACA's three largest taxes
in 2016



Source: Mulligan, Casey B. *Side Effects: The Economic Consequences of the Health Reform*. 2014b, Kindle edition.

Figure 2. Patterns of penalties and subsidies by employment situation, 2016



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TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

NFIB
The Voice of Small Business®

Testimony of

Dr. Joseph P. Sergio

before the

Joint Economic Committee

on the subject of

Examining the Employment Effects of the Affordable Care Act

on the date of

June 3, 2015

Chairman Coats, Ranking Member Maloney and distinguished members of the Joint Economic Committee, thank you for the opportunity to address you and share my experience with the impact of the Affordable Care Act on small businesses.

My Family History

I come to you representing small business. By way of introduction, I am a first generation American citizen, born in Indianapolis and raised in South Bend, IN. My father was born in the poorest part of Southern Italy, known as Reggio Calabria, and with my grandparents he emigrated to the United States, where they were looking for better futures for their children and grandchildren. They held firmly to their Christian Catholic faith, and lived the family values of "Faith, Family, Education, and Hard Work."

I have returned several times to Reggio Calabria with my sons to introduce them to their simple origins, and to help them appreciate the tremendous price and courage that their great grandparents paid to allow us to be raised in this great country of ours.

We have grown up thankful for all that the United States has provided to us and for the values for which it stands. Very importantly, we grew up knowing that members of our family actually lost their lives just coming to this country, losing my Aunt Maria and her four young children on the Andrea Doria when it was hit broadside by the ocean liner, the Stockholm, just off the coast of New York. My grandparents narrowly escaped death and were reunited on the shore. But our family was changed forever and will never forget the price paid to get us all here.

My grandfather was a small businessman, a shoemaker, with his shoe shop in the Golden Dome Administration Building on the campus of the University of Notre Dame. My other grandfather, also from Calabria, started working on the end of a shovel, literally digging ditches for the sewer system in South Bend, IN. He also eventually became a small businessman, starting his own construction company, retiring a very successful businessman.

My father received the first college education in our family's history, becoming a Pharmacist, and he owned his own pharmacy for his entire career until he retired.

History as a Small Businessman

With this family history, I started out as a small businessman with my older brother, who is now a Periodontist and a small businessman. At the ages of 16 and 17 respectively we started our own company building swimming pools. We paid for our college educations at the University of Notre Dame, graduating nearly debt free by working very hard every summer in high school and college. Upon graduation from college, my younger brother took our summer business and built a substantial swimming pool and construction company, which is the foundation of The Sergio Corporation, the business that I am the President of today.

I went on to receive an M.A. in Clinical Psychology, but when I discovered that I didn't have the patience for the patients, I refocused on a Ph.D. in Organizational Behavior Management, conducting research in and working with small businesses. I graduated and worked for a national, top-tier accounting firm as a consultant, helping small businesses to grow and thrive, until I eventually returned to work with my brother and brother-in-law in The Sergio Corporation.

We later sold our pool company that had become the number one pool sales and service company in the region, and we put a business plan together that created First Response, a national award-winning disaster restoration company that has been involved in every major hurricane and storm disaster in the past decade or so. We were the first restoration company in America with a 24 hour base of operation in the 9th Ward of New Orleans after Hurricane Katrina, and responded to over 100 facilities in three states during that

response and recovery effort. We helped open the rails and repaired switching facilities in New Orleans, jumpstarting the commercial restoration efforts by allowing damaged materials to move out and building materials to come in. We responded to the flooding of the Kentucky Derby Museum in Kentucky, Mississippi River flooding in the Midwest and worked on a series of significant restoration projects after Super-storm Sandy hit the east coast.

In 2011, with the economy unstable and the business environment sluggish, and not wanting our future growth to depend on the unpredictable nature of natural disasters, we knew that we needed to change how we were doing business. We understood the wisdom in the statement that "you are either moving forward or you are moving backwards, and there is no such thing as treading water." With this in mind, we utilized technology that we employed in our disaster business and started a new operating company based on engineered cleaning solutions, called Polar Clean America, to provide a green, environmentally friendly way of cleaning industrial applications. Today we blast dry ice to clean industrial equipment without water or chemicals to clean everything from nuclear plants, to food processing plants, to pharmaceutical and automotive facilities.

Even in economically challenging times there are great opportunities to grow and create jobs when you are willing to work hard and use a little ingenuity, that is, unless the opportunities are choked away by over-regulation and taxation as small business has so profoundly felt with the imposition of Obamacare – the Affordable Care Act – or as it is known among many small business entrepreneurs "The Unaffordable Care Act."

Understanding the Chilling Impact of Obamacare on Small Business

In order to understand how the attempt to overhaul the healthcare system ended up hurting small business, it is first necessary to understand what makes a job-creating small business succeed and last through time and strategic market changes.

To be successful in a small business you must be able to accurately identify, forecast and control your expenses in order to create profits – profits that you can in turn reinvest in growing your business. For us, our profits become the engine of our investment in building the right team with the proper training, and being able to utilize cutting edge technology to create world class service for our clients.

From the beginning, it has been clear that no one seemed to even read, much less understand, what was in the ACA. Small businesses, their advisors, tax professionals and even insurance companies are frustrated with the complications it has caused and all the unintended costs for the great amount of administrative time to evaluate options and process the invasive application for care. Job creators have been struggling to understand it, and interpret it, and therefore we cannot accurately predict or manage the costs associated with bringing in more employees. This unpredictable variation in our expenses can affect us profoundly in negative ways:

- If we let it, it could necessitate raising the price of our products and services and therefore change our value proposition, making us less competitive in the marketplace which puts our entire operation and current employees at risk by driving customers away.
- And if we let it, it could destroy our profitability, which eliminates our working capital to reinvest in our own business expansion and growth.
- So we have to grow without adding new full time employees, so we can protect our current full time employees.

Regardless of the current demonization of profits heard around the country, making a profit does not make one dishonest or evil. Without a profit there will be no growth in wages, no new benefits, no

training, no new equipment, no new vehicles and no new research & development to compete with the rest of the world. Profits create the opportunity for employee growth and development.

I think that it was best stated by Edmund Pendleton, President of the Convention Ratifying our Constitution, when he said, "When you take away someone's profit, you not only remove their incentive to work hard, but you shut off the blessing of wealth that would have benefited the entire community."

Our businesses have exhausted many options in dealing with the requirements of the Act. We had to drop a traditional PPO plan for a high-deductible Obamacare compliant program. As a result, our employees and our company are paying more for an inferior policy.

In short, the ACA has made building a small business more stressful, and has caused many businesses like ours to pull back and stop growing.

Why is this so stressful? Because this burden has been added on top of the already overwhelming demands on business owners:

- Long 12 and 14 hour days, six days a week.
- Rare vacations, intense and competitive business environment.
- Multiple responsibilities: managing people, managing risks, managing sales, managing marketing and managing compliance.
- Cost of highly skilled overhead staff to simply help keep the company compliant with all of the Federal, State and Local government requirements. American entrepreneurs are spending their time and money doing meaningless paperwork, while other countries have workforces that can focus on creating value.
- We are striving to keep the work coming in and guaranteeing the consistent quality of work being done for clients and customers.
- The responsibility we carry is not only to our families, and our children, but also to all of the employees who chose to work together on our team, their spouses and their kids, as well.
- Making payroll each week, which we have done for 36 years, without ever once missing a single payroll.

Most job creators have done without a paycheck to make sure their employees have not missed one. Why punish those who have worked so hard and risked so much to create a business and make a profit?

Frustration & Anger

Most small businesses and insurance professionals as well as employees and families, are quite frustrated and angry. And with the failure of the promise to lower costs for the average family by $2,500, and the fact that the price of insurance has increased significantly due to one-size-fits-all plans that require grandmothers to have maternity coverage and everyone to have higher deductibles or pay a penalty for having what used to be a 'normal plan' but is now considered a 'premium plan,' the anger is growing.

- Bureaucrats who in some cases have never had to start or operate a business, or make weekly payroll, are dictating how money should be spent and how to manage employee benefits.
- Businesses have a certain amount of money to spend on labor compensation and benefits and it is all being expended on the benefits.
- The insurance in Obamacare is often not as good as what was in place and it is expensive and Un-Affordable.
- Groups with 50 full-time equivalent (FTE) employees have even more costs. Things will continue to escalate, as the onerous new tracking and reporting requirements are dumped on

employers in 2016 by the IRS (Forms 1094-C and 1095-C). There will be a big additional burden on employers with more than 49 FTE employees; to report the lowest wage employee each month in order to comply with the ACA; where the employee cannot contribute more than 9.5% of their income to insurance. And the penalties continue to rise every year.

- This is necessitating a strategy in many small businesses to control costs by not rising above 50 employees. Therefore, the effort is toward fewer full-time employees, fewer 30-hour/week employees, more subcontract work, and more use of temporary services. This is not how to build quality and consistency in a workforce and to create oneness of purpose. I know of one small business personally that closed two of its multiple retail stores, because it was the only way that they could keep under 50 employees. This is a very real concern to small business and someone needs to listen.
- Additionally, many employers disdain the mandate that requires them to cover abortions. This is viewed as Un-American, and steps on our right to practice our faith unencumbered by the government.
- Employers can send employees to the Government Exchange, but only the lowest income brackets receive the full subsidies and benefit from the cost structure, and families just cannot afford to pay $15,000 to $20,000 per year for a family of 4.
- Those companies that were able to Grandfather their plans are finding that the premiums are skyrocketing as well.

Common sense and a basic understanding of human nature tells you: You will always get what you incentivize. You get more of what you reward and less of what you punish. The ACA punishes employment growth. The incentive is to not grow.

I believe that the ACA has damaged the best healthcare system in the world, damaged the American family, and hurt employees and employers with huge deductibles now that the average person cannot afford.

- ACA is Suppressing Growth for Employees' income: I have had business owners tell me that they have had employees who do not want raises, because it puts them above-the-line of receiving health insurance subsidies. You cannot live on health insurance alone.
- The more your income goes up, the greater your tax liability is under Obamacare if you are receiving the subsidy. Every time you get a bonus or increase in pay, your subsidy calculation changes. So if you get a bonus and your income has now changed you may have to pay back part of the subsidy you already received, because it based on an estimated income at the beginning of the year.
- Employees are spending more of their own money to buy Voluntary Supplemental Insurance, like AFLAC, to help fill the gaps for the poor coverage of ACA plans.
- With the ACA, our employees are facing larger co-pays and larger deductibles.
- Young and healthy employees cannot afford ACA and would rather pay the penalty tax, which will ultimately end up putting more people out of insurance coverage who might have at least considered and purchased a major medical policy in the past. Their mistrust of the whole system could be catastrophic if they come to the conclusion that all government is oppressive. We were told getting the young people on board was key to the success of Obamacare. Just the opposite is happening.

- The Sergio Corporation pays for 50% of our employees' and dependents' health insurance and our plans have been stronger than most.
- We offer a Health Savings Account and contribute annually per employee.
- Our employees' insurance costs now range from 6% of their pay to 19.7% for a family.
- Some employees avoid using the plan because they cannot afford to spend more money. One told me, "I can afford to pay out of pocket costs and my meds but not the premiums. Or I can pay the premiums and meds but have no money for the deductibles and therefore cannot use it for healthcare." So now they have decided not to buy an ACA plan, pay the penalty and pay out of pocket costs so they can afford their meds. But now they have no catastrophic coverage! In the past, they were always fully insured.
- Another long-term structural problem of Obamacare is the lower reimbursement payments to physicians and complex compliance costs for medical practices. Many physicians are reportedly not accepting ACA plans.
- Last week it was reported in USA Today that in Kentucky, the percentage of uninsured individuals went down but now hospitals were on the verge of closing due to reimbursement cuts. What good will a piece of paper saying you have Obamacare do if your doctor opts out and the hospital closes? This is especially problematic in rural communities.
- Our health insurance in 2015 will be our largest single vendor, even higher than construction material costs, and we are a construction company. How do we adjust for 24% increase in costs in one year which was largely due to the increase in the number of ACA requirements and regulations that had to be incorporated into the plan?
- In addition the imbedded small business health insurance tax is directly causing premiums to go up at the very time when everyone needs premium relief. This makes no sense at all.

Beginning in 2014, the health reform law imposed a new sales tax on health insurance that increased the cost of healthcare coverage directly. The amount of the tax was forecast to be $8 billion in 2014, increasing to $14.3 billion in 2018, and increased based on premium trend thereafter. The Joint Committee on Taxation estimates that the health insurance tax will exceed $140 billion in its first ten years. The Congressional Budget Office (CBO) has said that this tax will be "largely passed through to consumers in the form of higher premiums." A 2011 analysis by Oliver Wyman estimated that this tax "will increase premiums in the insured market on average by 1.9% to 2.3% in 2014," and by 2023 "will increase premiums 2.8% to 3.7%."

The Oliver Wyman analysis also estimates the effect of the new tax on insurance market segments and public programs:

- Impact on individual market consumers: Increase premiums over a ten-year period for single coverage by an average $2,150, and for family coverage an average $5,080.
- Impact on small employers: Increase premiums over a ten-year period for single coverage by an average $2,760, and for family coverage an average $6,830.
- Impact on large employers: Increase premiums over a ten-year period for single coverage by an average $2,610, and for family coverage an average $7,130.
- The National Federation of Independent Business Research Foundation released a study examining the private-sector job loss that will result from the health insurance premium tax.

As you can see, whatever the intention was when Obamacare and the small business health insurance tax was passed, it will harm job creation and increase premiums at the precise time when families, small businesses and the economy are sorely in need of job growth and tax relief.

With all the complexity, confusion and costs, many businesses are simply dropping health insurance since they don't have to offer it. On one hand they are protecting their business and in so doing protecting the livelihoods of their current employees. But then the same employees are then left on their own to deal with the more expensive policies of Obamacare.

Small business is the backbone of American growth. Small companies with fewer than 500 employees represent 99.9% of the 26.8 million businesses in the country, both large and small. If America's small businesses were a separate economy, it would be one of the largest in the world, trailing only the U.S. economy as a whole, China and Japan. According to the U.S. Small Business Administration, small businesses account for about two-thirds of all net new jobs created in recent years.

Small businesses everywhere are speaking with a common plea: "Get the government off of our backs and let us grow!"

I have tremendous respect for the millions of Americans who struggle each week to meet payroll and grow their dreams. For this reason, I have served for over 25 years with NFIB to promote and protect the rights of small business people to own, operate and grow their businesses.

As a small business entrepreneur and job creator, I urge you to repeal Obamacare and allow for creating group plans that can create risk pools across state lines so that we could have the best of both worlds of market competition and the advantage of the old system which was not perfect but absolutely should not have been replaced with the oppressive requirements, confusion, fees, high costs, penalties, injustices and extensive policing of every man woman and child in America through the expanded IRS now regulating every individual insurance policy.

ACA has and will continue to displace millions of American workers from the security of the healthcare they once had. Undo the vast harms ACA has and is causing to the middle class and start over. Address the essential issue of unleashing small business to create millions of new jobs which could raise most citizens out of being at risk and into truly affordable plans.

When we are dead and gone, none of us are taking any of our power or position or our money or anything else with us, so let us leave a legacy of life, liberty and the unfettered pursuit of happiness through the dignity of honest work and the ability to earn the rightful reward for the risks we have taken to live, work and create jobs and wealth in America.

TESTIMONY

OF

BARBARA L. CARROLL

ON BEHALF OF
THE COLLEGE AND UNIVERSITY PROFESSIONAL
ASSOCIATION FOR HUMAN RESOURCES

JUNE 3, 2015

FOR A HEARING ENTITLED

"EXAMINING THE EMPLOYMENT EFFECTIVENESS OF
THE AFFORDABLE CARE ACT"

BEFORE

THE JOINT ECOMOMIC COMMITTEE

Chairman Coats, Ranking Member Maloney and Honorable Members of the committee, thank you for the opportunity to appear before you today to discuss the Affordable Care Act and its impact on colleges and universities.

I am the Associate Vice Chancellor for Human Resources at North Carolina State University. I am speaking on behalf of the College and University Professional Association for Human Resources, known as CUPA-HR. CUPA-HR represents more than 1,900 institutions of higher education and more than 18,000 HR professionals and other campus leaders. I am the Chair-elect of CUPA-HR's national Board of Directors and have chaired the Board's committee on public policy for the last two years.

CUPA-HR appreciates and supports the ACA's overarching goal of ensuring that Americans have access to health care coverage. Higher education for the most part is a sector that has historically has provided healthcare benefits for its fulltime faculty and staff. So for higher ed, implementation of the ACA did not result in new coverage requirements for its primary population of campus employees. Colleges and universities have encountered new challenges, however, with collateral impact of the ACA's employer mandate on a couple of unanticipated populations in higher ed: specifically part-time professionals and students.

As a sector, higher ed tends to employ a fair number of part-time professionals, ranging from adjunct faculty who teach on a per-course basis to part-time coaches in non-revenue sports. We also provide opportunities for our own students to earn financial support by performing compensated activities on campus. Students whose primary purpose for being on campus is to pursue learning and to seek an education, rather than to earn a living, are just that -- students -- and are not "employees" of the institution.

I would like to share some of the difficulties of having to apply the employer mandate to students, which is the current state of things. Colleges and universities understand the important role employer provided health care plays in ensuring the health and wellbeing of our nation. Our members provide robust benefits to their employees. According to CUPA-HR's 2014 survey: 82% of our members offer employees PPO plan coverage; 36% offer HMO plans; two-thirds offer employees dental and vision benefits; 42% offer coverage to at least some part-time staff; and nearly half provide health coverage for retirees.

Students who work on campus, however, generally do not share the same needs or status as employees, and campuses have not historically offered health coverage or other employee benefits such as retirement contributions or paid vacation days to students as part of the employer-sponsored plans we provide to true employees. Students by their nature have a temporary relationship with their institution, and their primary purpose for being at a college or university is to receive an education, rather than to be employed. Colleges and universities generally view the funds that students receive for on-campus

assignments as a form of financial aid to support the continuation of their degree progress rather than as salary or wages for performing services that primarily benefit the employer.

Even though we don't cover students under our employee healthcare plans, the vast majority of students have access to health coverage through their family's plan, or through a government-regulated student health insurance plan, or SHIP plan, provided by the college or university.

Nonetheless, the ACA does not specifically exclude student workers from the employer mandate, and to date, the Department of Treasury has only provided a limited exemption, for students working as part of formal federal or state work-study programs—an exemption we requested and appreciate.

As result, colleges and universities—which, like other employers, must provide coverage to 95% of their full time employees in 2016—are facing the prospect of offering employee healthcare coverage to any students who may exceed the ACA's eligibility threshold. Offering student workers such coverage would substantially increase administrative burdens, costs, and liabilities to higher education institutions, at the same time that higher ed is under ever-increasing pressure to keep the costs of education as low as possible. While a handful of schools have sizeable endowments, the revenue of the vast majority of colleges and universities must come from only one or two essential sources: either tuition or governmental support. With government support increasingly constrained, significant new costs must be borne by an institution in the form of higher tuition to students. To avoid these burdens, costs and liabilities, many colleges and universities are being forced to cut on-campus work opportunities for students and limit the amount of time that students can work.[1] Unfortunately, we expect more schools will do so as 2016 and the ACA's 95% coverage requirement approaches. Such limits will be particularly impactful on students with limited or no family resources, for whom campus financial opportunities are their primary source of support other than incurring student debt.

Cuts to student work hours and reductions in student opportunities will be particularly drastic in jobs where tracking student work hours is difficult. For example, colleges and universities do not track hours for graduate student research assistants or residence life assistants. When is a grad student, who's conducting research in a lab under the supervision of a faculty member, learning for his or her own – and society's – benefit, vs. 'working' for the university's benefit? When is a dormitory resident advisor 'working' vs. 'hanging out' and getting opportunities to have campus housing and demonstrate mentorship skills? Because calculating hours in these situations is impractical, institutions may err on the side of caution and impose dramatic cuts, which could severely and negatively impact opportunities for students. Another group potentially impacted would be students who receive stipends for engaging in various campus activities. Colleges and

[1] See articles highlighting this trend at http://www.thecollegefix.com/post/19847/ and http://news.investors.com/politics-obamacare/090514-669013-obamacare-employer-mandate-a-list-of-cuts-to-work-hours-jobs.htm.

universities often provide stipends to students participating in activities such as student government, student publications, drama clubs, bands, debate teams, radio stations, and intramural and interscholastic athletics. Colleges and universities do not track these students' participation as "work" hours -- and the stipends are not considered compensation for work, but rather a manner by which the institution can help students, who might need to otherwise seek paid employment, to participate in these activities. While the U.S. Department of Labor has recognized that a student may receive payment for participation in such activities without creating an "employment relationship," [2] Treasury has yet to provide such assurances with respect to the ACA. As a result, colleges and universities may conclude they must simply stop providing stipends in these situations.

This is a bad outcome for students; a bad outcome for parents; and a bad outcome for colleges and universities.

Treasury recognized this to some extent, and it exempted work-study students from the ACA employer mandate. But there are many similar students who are subsidized directly by their institutions rather than by a federal or state aid program, although with the same goals in mind: supporting their financial needs and making progress toward degree attainment.

CUPA-HR, the American Council on Education and other higher education associations have approached Treasury with several possible solutions to this problem. We have met with the agency several times since 2013 and sent two letters, one dated March 18, 2013 and the other July 16, 2013 – both of which I have included as part of my written testimony. In the letters, we asked that the agency to issue guidance that excludes from the ACA employer mandate any hours where students are exempt from the requirements of the Fair Labor Standards Act (FLSA) as set forth in DOL's Field Operations Handbook at sections 10b03(e), 10b11, 10b14, 10b18, and 10b24. DOL acknowledges in the Handbook the reality that in many cases students worker and the nature of the functions they perform significantly differ from typical employees so much so that they warrant special treatment (e.g., the functions are deemed not to be "work" or the student is deemed not to be an "employee"). By mirroring the DOL Handbook, Treasury would exempt from the employer mandate student employees such as graduate research assistants, resident life assistants and those receiving a stipend for participation in student activities. Treasury itself has recognized the unique nature of such student workers on campus by largely exempting them from employee FICA taxes.

Treasury might also consider another approach: deeming colleges and universities in compliance with ACA if the institution offers those students coverage under an ACA-compliant SHIP plans. According to the federal government, approximately 1.1–1.5 million

[2] U.S. Department of Labor, Field Operations Handbook, Section 10b03(e).

students receive health coverage under student health plans.[3] The Department of Health and Human Services (HHS) issued final regulations on SHIP plans imposing ACA's coverage mandates to them. Significantly, the rule proposed by HHS designates self-funded student health plans as minimum essential coverage, meaning that a student who is covered by such a plan meets his or her individual mandate under the ACA.

We believe these solutions are within Treasury's authority, and by taking action, the agency could prevent unnecessary negative outcomes for students, parents and universities. I would like to note here that Treasury has responsive to our request to meet and has been willing to engage in thoughtful dialogue on these issues. We wish they would act rapidly with respect to the solutions we have offered. Again, as you consider these solutions please keep in mind the unique role student employment plays in helping students progress toward degree attainment and the fact that the vast majority of students have access to ACA compliant health care coverage through family or student plans.

I want to highlight one more issue with the application of the ACA to SHIP plans—particularly with respect to coverage for graduate students. Many schools provide graduate students with SHIP coverage at no or a greatly reduced cost as part of a graduate assistantship package. In a recent webinar, a well-known benefits consulting firm stated that the IRS had provided informal guidance that this practice is not permitted pursuant to IRS Notice 2013-54 and institutions could face fines of $36,500 per impacted individual.

In reviewing the Notice, we think that this informal guidance is based on a misperception of the law. Without clarification, however, the informal guidance is causing great concern on campuses because it interferes with longstanding practice intended to enhance access to higher education and lower the cost of graduate education. We reached out just last week to the IRS to seek clarification and hope to hear from them soon.

As mentioned earlier, campuses were also struggling to apply the employer mandate to adjunct faculty, who are typically paid for a specific academic deliverable (preparing and teaching a specific course) rather than by the hour. Colleges and universities do not track work "hours" for any faculty, and doing so is impractical if not impossible.

Along with the American Council on Education and several other higher education associations, in 2013, we approached Treasury about the application of the ACA to adjunct faculty. In the absence of any method for calculating adjunct hours, several institutions had announced they would need to aggressively limit course loads for those adjunct faculty for whom they could not afford to provide coverage.

After several meetings with higher education associations and groups representing adjunct faculty, Treasury created a "safe harbor," which institutions may rely upon to count adjunct 'hours' for ACA purposes. This safe harbor, which allows institutions to calculate

[3] See 77 Fed. Reg. 16,453 (issued Mar. 21, 2012).

2¼ hours of total work effort for every 1 credit hour taught, is being used by close to 70% of our member institutions, according to a recent survey. Treasury also allowed for other 'reasonable' calculation methods. While many colleges and universities continue to limit adjunct course loads to avoid ACA coverage requirements in the face of economic constraints, the limitations they are imposing on course loads are less severe than were being contemplated prior to the creation of the safe harbor.

Higher ed also has significant concerns about the impact on campuses of the ACA's 40% excise tax on so called "high cost" health plans.

Starting January 1, 2018, the federal government will begin imposing the 40% tax on employer plans that cost more than government-set thresholds—currently $10,200 for individual coverage, and $27,500 for family coverage. The tax will apply to every dollar spent above the threshold and will not be tax deductible by the employer.

According to our most recent benefits survey, 10% of our member institutions *already* have plan costs that exceed the 2018 threshold. Given that our survey did not factor in flexible spending account reimbursements, contributions to health saving accounts and similar costs beyond premiums,10% is an underestimate of the number of immediately-impacted institutions.

Unfortunately in coming years, even more plans and the employees they cover will be impacted by the excise tax. Annual increases to threshold levels are tied to the consumer price index (CPI), even though medical inflation has historically grown much faster than CPI. As a result, the cost of these plans will almost certainly increase much faster than the threshold, and the excise tax will apply to increasing numbers of plans every year. As explained in a report by American Health Policy Institute (AHPI), a nonpartisan think tank, "the inexorable increase in health care costs will eventually cause Chevrolet benefit plans to be taxed as Cadillacs."

The excise tax is currently scheduled to go into effect in 2018, but many colleges and universities are already having to contemplate the extensive impact it will have on their costs as they negotiate multi-year collective bargaining agreements with unions, for example, and other contracts that reach through 2018.

In the face of this tax, many will be forced to bear additional significant costs imposed by the tax, or significantly reduce health benefits they provide for their employees, or both. This cannot be what Congress intended, so we encourage a reconsideration of the excise tax's impact.

In closing, I would like to express my gratitude to the members of the committee for your time and attention today, and I hope that bringing some of our most pressing concerns regarding the ACA will help result in workable solutions. I personally thank you for this opportunity to testify. I would be happy to answer any questions you may have.

Office of Government & Public Affairs

Submitted via http://www.regulations.gov

March 18, 2013

Internal Revenue Service
CC:PA:LPD:PR (REG-138006-12)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Shared Responsibility for Employers Regarding Health Coverage (REG-138006-12)

Dear Sir or Madam:

On behalf of the American Council on Education ("ACE") and the undersigned higher education associations, I am writing to comment on the Notice of Proposed Rulemaking issued by the Department of the Treasury and the Internal Revenue Service (collectively, the "Department") regarding section 4980H of the Internal Revenue Code ("Code"), which addresses the shared responsibility for employers regarding employee health coverage, 78 Fed. Reg. 218 (Jan. 2, 2013) ("NPRM 4980H").

Together, we represent approximately 4,300 two- and four-year non-profit public and private colleges and universities. We work to address the toughest higher education challenges, with a focus on improving access and preparing every student to succeed. We strive for implementation of the Affordable Care Act ("ACA") in a manner that works best for students, institutions, and employees in higher education. The goal of these comments is to ensure that federal regulations provide appropriate coverage for students who work on campus and adjunct faculty members who are truly full-time employees. Specifically, we write in support of safe harbors for students who work on campus and adjunct faculty in order to more accurately account for their employment status.

Higher education plays a unique role in American society and fulfills many needs, including undergraduate education, graduate and professional training, basic research, and public service. Colleges and universities also foster unique opportunities for temporary and variable-hour staff positions, such as those held by students working on campus and adjunct faculty members. These institutions face extraordinary challenges in providing students with access to affordable higher education. Higher education officials are particularly concerned about potential increased costs for health coverage. Students face many unintended consequences from these increased costs, such as the likelihood of increased tuition and reduced educational services.

We urge the Department to carefully consider the consequences of NPRM 4980H as applied to certain college and university temporary and variable-hour workers. As described below, NPRM 4980H as applied to these workers is incompatible with the goals of ACA's shared responsibility provisions, which are designed to cover full-time employees. The Department must strive to adopt policies that accurately reflect higher education's unique employment arrangements, as in the following safe harbor proposals for determining the hours of students who work on campus and adjunct faculty.

Safe Harbor Proposal for Students Who Work on Campus. The core of the employer responsibility provisions under ACA is an obligation for an employer to either (1) offer its full-time employees the ability to access minimum essential coverage under an eligible employer-sponsored plan or (2) make so-called shared responsibility payments to the federal government to the extent the employer elects (a) not to offer coverage at all or (b) to provide coverage deemed inadequate under the Act. ACA § 1513. For this purpose, "minimum essential coverage" is insurance coverage offered through a group health plan, a governmental plan, Medicaid, Medicare, any other plan or coverage offered in the small or large group market within a state, or any coverage deemed as such by the Department of Health and Human Services ("HHS"). ACA § 1501(b). It should be noted that it is ultimately the employees' responsibility to obtain minimum essential coverage. *Id.* In that respect, the employer responsibility provisions of ACA are meant to support individual employees in their quest to fulfill their individual mandate under ACA.

Students who work on campus do not share the same status as typical employees. There is little risk such students will lack meaningful health coverage. Indeed, many students will be covered by the employer-provided group health plans of their parents inasmuch as 4980H NPRM requires an employer to offer its full-time employees and their dependents the opportunity to enroll in minimum essential coverage. For this purpose, a "dependent" is defined as the employee's child who is under age 26. Additionally, according to the federal government, approximately 1.1–1.5 million students receive health coverage under student health plans. See 77 Fed. Reg. 16,453 (issued Mar. 21, 2012). Moreover, HHS issued final regulations bolstering the coverage offered through these plans by applying many of ACA's coverage mandates to them. *Id.* Significantly, a rule proposed by HHS designates self-funded student health plans as minimum essential coverage, meaning that a student who is covered by such a plan meets his or her individual mandate under ACA. 78 Fed. Reg. 7348 (Feb. 1, 2013).

Setting aside the fact that the federal statutory and regulatory schemes favor coverage for adult children up to age 26, student employment in most cases complements the students' overall educational program. For this reason, students who work on campus retain a special status under applicable labor law. The type and amount of work students perform can affect whether they are considered "employees" for purposes of the Fair Labor Standards Act, the National Labor Relations Act, or other employment-related laws. Generally, under the Fair Labor Standards Act, students who are employed as part of their overall educational programs are not considered to be "employees," regardless of effort expended. For example, for purposes of the Fair Labor Standards Act, the U.S. Department of Labor ("DOL") notes that graduate research assistantships are a form of subsidy that both allows the graduate research assistants to continue their studies and prepares them directly for their future careers. *See* DOL *Field Operations Handbook* at section 10b18. It should be noted that the standard for determining the employer-employee relationship is generally broader under the Fair Labor Standards Act than the common law, meaning it is more likely under a given set of facts that the employer-employee relationship will be found for purposes of the Fair Labor Standards Act than under the common law. *Id.* at section 10b01. Yet, in exempting certain employed students from the definition of employee under the

Fair Labor Standards Act, the DOL acknowledges the reality that such students and the nature of the functions they perform significantly differ from typical employees so that they warrant special treatment (e.g., the functions are deemed not to be "work" or the student is deemed not to be an "employee"). *Id.* at sections 10b03(e), 10b11, 10b14, 10b18, and 10b24. Similarly, other authorities, such as federal courts and the National Labor Relations Board ("NLRB"), issue determinations from time to time on whether a particular set of students working on campus are considered "employees" for purposes of employment-related laws using facts and circumstances tests that are substantially similar to those set forth in the cited DOL *Field Operations Handbook.*

- ***Nature of Work Safe Harbor***

Accordingly, an appropriate safe harbor would track the existing rules and guidance on employed students for purposes of the Fair Labor Standards Act as reflected in the DOL's *Field Operations Handbook* at sections 10b03(e), 10b11, 10b14, 10b18, and 10b24, considering whether the student works as part of his or her overall educational program, and would also consider any other rulings on the status of particular groups of students from a federal court, the DOL, or the NLRB. We request that the Department issue guidance clarifying that, for purposes of calculating a student's hours under ACA Section 4980H, institutions of higher education may apply the standards set forth in the DOL's *Field Operations Handbook* at sections 10b03(e), 10b11, 10b14, 10b18, and 10b24. To the extent a student works more than one job (either for the college or university or as part of a work-study program), each job should be evaluated independently to determine whether it meets the DOL standards. We also request that the Department issue guidance clarifying that an individual college or university that receives a ruling or determination specific to that institution with respect to the status of a particular group of students may rely on that specific ruling.

- ***Work-Study Safe Harbor***

Other students whose work is separate from their educational programs typically take on such campus roles as a form of financial aid under work-study programs in order to remain enrolled and make progress toward their degree. Such campus roles are not typically considered to be job paths for students as much as a way to support their continued educational progress. As such, these campus roles do not necessarily fit within the "nature of work" safe harbor set forth above. Nevertheless, these positions are a key component of the strategic arsenal of federal student aid programs created to expand opportunities for students who would not otherwise have the financial resources to attend college. Students who participate in work-study programs are afforded access to student health insurance programs by the institutions they attend. Treating students who hold these work-study positions as "employees" for purposes of ACA Section 4980H places an economic burden on a program that is meant to provide individuals with financial need meaningful access to higher education. It would be an odd result, indeed, to apply 4980H in a manner that would strain institutions' ability to provide access to higher education to such students, which would include access to student health plan coverage in many instances. We therefore recommend that the Department issue guidance clarifying that, for purposes of calculating the hours worked by a student for purposes of ACA Section 4980H, an institution of higher education may exclude the hours worked by a student who is enrolled in classes at least half-time at the institution and who receives a wage as part of a job under a work-study program.

Safe Harbor Proposals for Adjunct Faculty. In the 4980H NPRM, the Department acknowledges that adjunct faculty present difficulties in terms of categorization s as full-time versus part-time employees for purposes of ACA Section 4980H. As the Department points out, the adjunct faculty members' compensation is usually based on the number and type of courses they teach.

Compensation may vary not only by course credit but also by whether the course is entry-level or advanced in content, or the number of students enrolled in the course, or by whether the course content is inherently stable or rapidly-changing from year to year. For this reason, institutions of higher education typically do not track the hours worked by adjunct faculty; rather, they pay the instructor based on the instructional deliverables required by the specific course, including course preparation time, in-class instruction, and student feedback and grading. This reality complicates the requirement under the 4980H NPRM that employers must calculate the hours of adjunct faculty members pursuant to a "reasonable method for crediting hours of service that is consistent with the purposes of section 4980H." Accordingly, we support the safe harbor provisions outlined below.

- ***Safe Harbor Based on Percentage of Full-Time Course Load***

Adjunct faculty should be classified as full-time employees if the course load they teach meets or exceeds three-quarters of the course load for a full-time, non-tenure-track (NTT) teaching faculty member in that academic department. Since most full-time tenured and tenure-track faculty engage in duties beyond instruction as part of their work commitments (including student advising, departmental administration, and institutional service), full-time faculty may teach less than what would be considered a full-time course load for an NTT teaching faculty member (although some adjunct faculty also have these additional responsibilities). This approach is predictable and a fairly accurate reflection of the circumstances of a particular campus. We urge the Department to adopt rules clarifying that institutions of higher education may classify adjunct faculty as full-time employees if the course load they teach meets or exceeds three-quarters of the course load for a full-time NTT teaching faculty member in a particular department. We also request that the Department issue guidance clarifying that, in order to avail itself of this safe harbor, an institution of higher education must adopt in writing a uniform definition of "full-time NTT teaching faculty member" tailored specifically to each academic department prior to the beginning of an academic year. In the alternative, this definition could be made for the institution as a whole rather than specifically for each academic department. This approach comports with the section 4980H NPRM, which permits colleges and universities to adopt a "reasonable method for crediting hours of service that is consistent with the purposes of section 4980H." 78 Fed. Reg. 218, 225 (Jan. 2, 2013). We believe that such an approach, particularly if implemented at the institution level, would provide the requisite transparency and predictability necessary to ensure compliance with the ACA.

- ***Safe Harbor Based on One-to-One Ratio of Hours Teaching to Non-Classroom Work.***

A second method of calculating the total hours worked by adjunct faculty would be to credit adjunct faculty members with one hour of work outside the classroom for each hour teaching in the classroom. Although this approach could in some cases misrepresent actual hours worked, depending on the specifics of the given course, it provides a reasonable approximation as well as predictability and ease of administration, and is supported by at least one self-reporting study.[1] A one-to-one ratio of outside classroom work to teaching hours is the most accurate estimate, because it reflects assumptions, practices, and data found at many institutions of higher education.[2]

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1 *Digest of Education Statistics*, "Percentage distribution of part-time faculty and instructional staff in degree-granting institutions, by level and control of institution, selected instruction activities, and number of classes taught for credit: Fall 2003," http://nces.ed.gov/programs/digest/d11/tables/dt11_266.asp.

2 A typical example at a community college is Brookdale College in New Jersey. Full-time teaching faculty are exempt employees who are considered to have a workweek obligation of thirty-five hours: five three-hour courses for a total of

Community colleges employ most of the adjunct faculty in higher education institutions, and where their employment contracts account for out-of-classroom efforts, a 1:1 ratio is often assumed. Although some organizations propose assuming two hours of out-of-class work for each contact or teaching hour, this approach is inconsistent with institutional practice and the principles under which faculty generally are categorized and compensated. For example, under such a formula, a community college adjunct faculty member who taught two three-credit courses and one four-credit course (many regular courses are four credits; some lab courses are six credits), would qualify as a full-time employee. With full-time faculty generally teaching five courses at community colleges, and having related administrative, academic counseling, and other campus responsibilities as described above, it is not reasonable to treat as full-time an adjunct faculty member who carries fewer than four courses per semester.

As such, we request that the Department issue guidance clarifying that, for purposes of determining whether an adjunct faculty member is a part-time or full-time employee under ACA Section 4980H, institutions of higher education may credit adjunct faculty members with one hour of non-classroom work for every hour in class teaching.

Thank you for considering our comments to the Section 4980H NPRM. If you have any questions or would like to discuss these comments further, please do not hesitate to contact me.

Sincerely,

Terry W. Hartle
Senior Vice President

On behalf of:
American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
Association of American Universities
Association of Public and Land-grant Universities
College and University Professional Association for Human Resources
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators
NASPA: Student Affairs Administrators in Higher Education

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fifteen contact hours; fifteen hours of college obligations including but not limited to participation in governance, department meetings, curriculum development, and prep time; and, in addition, five office hours per week, one for each course taught.

American Council on Education™
Leadership and Advocacy

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202 939 9300
acenet.edu

July 16, 2013

Mr. J. Mark Iwry
Senior Advisor to the Assistant Secretary and Deputy
Assistant Secretary for Retirement and Health Policy
U.S. Department of Treasury
1500 Pennsylvania Avenue, N.W., Room 3064
Washington, DC 20220

Re: Shared Responsibility for Employers Regarding Health Insurance Coverage (REG-138006-12) and Student Employment in Higher Education

Dear Mr. Iwry:

On behalf of the American Council on Education and the undersigned higher education associations, I am writing to follow up our recent meeting concerning the treatment of student employment in higher education under the proposed regulations concerning employer shared responsibility for employee health insurance coverage. (See 78 Fed. Reg. 218 (Jan. 2, 2013)("NPRM 4980H")).

As we indicated in our meeting, we are deeply worried about the effect of the implementation of the Affordable Care Act ("ACA") on student employment at higher education institutions. In particular, we are concerned that the final regulations will inadvertently impose a terrible choice on colleges and universities: ensuring that needy students have sufficient work necessary to pay for school, or limiting student work hours to avoid additional health insurance costs in already tight budgets. Accordingly, we ask that in crafting the final regulations on this issue, the Department carefully balance the competing concerns of student access to higher education, the central goal of federal higher education policy, and the goal of the ACA to ensure broad access to sufficient, affordable health insurance coverage.

As we discussed in our meeting, there are two broad types of student employment in higher education: 1) students working primarily to earn funds necessary to pay for the cost of college. Often this work is performed on campus; and 2) students working, often though not exclusively, off campus for an employer in an internship or cooperative education program that provides an experiential learning component of the academic program in which the students are enrolled.

Student Employment by the Institution

Institutions work very hard to ensure that students can find sufficient employment to meet their financial needs. Federal higher education policy regards student employment as a form of "self-help" financial aid and promotes it through the Federal Work-Study Program (FWS). This important program provides funds to participating colleges and universities to help pay for part-time employment of undergraduate and graduate students with financial need, allowing them to earn money to help cover educational expenses. Regardless of the funding source, students are employed in virtually all areas on campus, with some jobs directly connected to their educational programs and others less so. In addition, schools sometimes place students in off-campus FWS positions. In some circumstances, the institution remains the student's employer through written agreements with the off-campus entity. Even at mid-sized institutions, student employees can number in the thousands.

In general, students are compensated for these part-time jobs either by the hour or through a salary. Examples of jobs paid on an hourly basis include tutoring, food service, residence hall housekeeping, clerical positions, and security desks. Many institutions limit the number of hours student employees can work so as not to interfere with their academic programs. Often, students with federally-defined financial need who receive an hourly wage are supported by FWS. It is quite common for schools to impose a cap of 20 hours per week under FWS. Examples of students receiving compensation with a salary include resident assistants, graduate assistants, undergraduate student government officers, and students on internships. Payment may be in the form of a single lump sum or payments at regular intervals. The hours of student employees receiving this form of compensation, such as resident assistants, generally are not tracked.

Student employees are not typically covered under an institution's employee health insurance plan. Instead, they receive health insurance coverage in a variety ways, including through their families' health insurance coverage up to age 26 and under ACA-regulated student health insurance coverage, which schools may subsidize through their financial aid program or provide at no cost as part of a graduate school award package. In addition, as of 2014, students will be able to purchase coverage through individual market exchanges, possibly with premium tax subsidies, or in many states through Medicaid, if income eligible.

Student employees rarely hold a single job on campus where the hours exceed the 30-hour threshold. However, there are instances where students combine one or more jobs that together may exceed the 30-hour threshold. For example, a student may combine a 15-20 hour a week part-time FWS job paid hourly with a job in the residential life system like resident assistant. These student employees are working this number of hours primarily for financial reasons. This presents a significant challenge for institutions because, as noted above, many campus jobs hours are not tracked and schools have little capacity to know whether a student will clear the 30-hour threshold.

In some cases, students earn their FWS awards during the summer, when they may work 30 hours or more per week. Federal regulations allow students to "pre-earn" FWS, but the net wages must be applied to the student's next period of attendance. For example, a school

might award a student $3,000 in FWS for the 2013-14 academic year, which he would normally earn over roughly 30 weeks (13 hours per week at minimum wage). That student could be permitted to earn some or all of the award during summer 2013 by working more than 30 hours per week.

Again, the primary purpose of campus work is to make higher education affordable to students with need, and to provide work experience related to the academic program. It is with these considerations in mind that we proposed two safe harbors in our regulatory comment letter dated March 18, 2013 in response to the NPRM 4980H: one based on the Department of Labor's approach toward students under the Fair Labor Standards Act and one focused on student employment under a work-study program. As we discussed in our meeting, we continue to believe that those proposed safe harbors, set out again below, provide a reasonable and fair approach to addressing the issue of student employment under the employer shared responsibility requirement:

- ***Nature of Work Safe Harbor***

  [A]n appropriate safe harbor would track the existing rules and guidance on employed students for purposes of the Fair Labor Standards Act as reflected in the DOL's *Field Operations Handbook* at sections 10b03(e), 10b11, 10b14, 10b18, and 10b24, considering whether the student works as part of his or her overall educational program, and would also consider any other rulings on the status of particular groups of students from a federal court, the DOL, or the NLRB. We request that the Department issue guidance clarifying that, for purposes of calculating a student's hours under ACA Section 4980H, institutions of higher education may apply the standards set forth in the DOL's *Field Operations Handbook* at sections 10b03(e), 10b11, 10b14, 10b18, and 10b24. To the extent a student works more than one job (either for the college or university or as part of a work-study program), each job should be evaluated independently to determine whether it meets the DOL standards. We also request that the Department issue guidance clarifying that an individual college or university that receives a ruling or determination specific to that institution with respect to the status of a particular group of students may rely on that specific ruling.

- ***Work-Study Safe Harbor***

  Other students whose work is separate from their educational programs typically take on such campus roles as a form of financial aid under work-study programs in order to remain enrolled and make progress toward their degree. Such campus roles are not typically considered to be job paths for students as much as a way to support their continued educational progress. As such, these campus roles do not necessarily fit within the "nature of work" safe harbor set forth above. Nevertheless, these positions are a key component of the strategic arsenal of federal student aid programs created to expand opportunities for students who would not otherwise have the financial resources to attend college. Students who participate in work-study programs are afforded access to student health insurance programs by the

institutions they attend. Treating students who hold these work-study positions as "employees" for purposes of ACA Section 4980H places an economic burden on a program that is meant to provide individuals with financial need meaningful access to higher education. It would be an odd result, indeed, to apply 4980H in a manner that would strain institutions' ability to provide access to higher education to such students, which would include access to student health plan coverage in many instances. We therefore recommend that the Department issue guidance clarifying that, for purposes of calculating the hours worked by a student for purposes of ACA Section 4980H, an institution of higher education may exclude the hours worked by a student who is enrolled in classes at least half-time at the institution and who receives a wage as part of a job under a work-study program.

Students Working as Part of Internship or Cooperative Educational Programs

Since filing our letter on March 18, we have become aware of another area of concern regarding the potential adverse effect of the employer shared responsibility requirement on students engaged in work as part of an internship or cooperative educational program sponsored by a college or university.

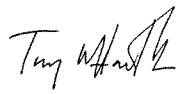
Increasingly, colleges and universities are incorporating internships or cooperative educational programs into their undergraduate and graduate academic programs because they aid students in their future careers and enable them to support themselves financially while in school. In these experiential educational programs, students alternate semesters of academic study with semesters as an intern or on "co-op" in full-time employment with a private employer, often off campus, in positions related to their academic or career interests. Students usually work for a semester (3 months) or longer, sometimes "doubling up" co-ops to work for 6-9 months. Some students may even continue working part time for the same employer after returning to classes. Frequently, these internships or co-op placements lead to full-time employment for students post-graduation.

Based on feedback from employers participating in such programs, we are concerned that the ACA's employer shared responsibility requirements could undermine these experiential education programs. Specifically, if employers believe they are obligated to offer interns or co-op students employee health insurance coverage, they may either limit the length of the internship or co-op placement or, worse, choose not to participate in the program at all because of the additional cost.

As we discussed in our meeting, we propose that the final regulations permit employers to deem students working as part of a college- or university-sponsored internship or cooperative educational program as *per se* seasonal employees exempt from the employer's obligation to offer health insurance coverage under the employer shared responsibility requirement. We believe such students would not be deprived of health insurance coverage as they are likely to be insured in the manner described above. Further, we recommend that the Department define such internship or cooperative educational programs in a manner similar to the approach codified in Title 20 of the U.S. Code (see 20 USC §1161n or 20 USC §2302).

Thank you for considering our views. If you have any questions or need additional information, please do not hesitate to contact Steven Bloom at 202-939-9461 or sbloom@acenet.edu.

Sincerely,



Terry W. Hartle
Senior Vice President

TWH/ldw

On behalf of:
American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
Association of American Universities
Association of Public and Land-grant Universities
College and University Professional Association for Human Resources
National Association of Independent Colleges and Universities
National Association of College and University Business Officers
National Association of Student Financial Aid Administrators

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June 3, 2015

Testimony of Paul N. Van de Water
Senior Fellow, Center on Budget and Policy Priorities
Before the Joint Economic Committee

Employment Effects of the Affordable Care Act

Mr. Chairman, Vice Chairman Brady, Ranking Member Maloney, and members of the committee, I appreciate the invitation to appear before you today to discuss the impact of health reform on employment and the economy.

Five years after its enactment, the Affordable Care Act (ACA) has achieved major objectives and proved wrong its critics' most dire predictions.

The ACA's most visible success has been to increase the number of Americans with health insurance coverage. Some 17 million more people now have coverage either through the health insurance exchanges, the Medicaid expansion, or the inclusion of young adults on a parent's policy. The Congressional Budget Office (CBO) projects that the number of newly insured will swell to 25 million within a few years.[1]

Moreover, health reform is increasing coverage without adding to the budget deficit. CBO now projects that federal health spending will be nearly $700 billion less over the 2011-2020 period than CBO projected in January 2010 — even with the subsequent enactment of health reform. (See Figure 1.) Although views differ on the sources of the health care cost slowdown and their relative importance, health reform has likely played a significant role and will continue to do so.[2]

It's also important to note some things that have *not* happened.

First, health reform has not been a "job killer." The economy has experienced the longest stretch of job growth on record. CBO estimates that health reform will reduce total labor compensation in

[1] Congressional Budget Office, *Insurance Coverage Provisions of the Affordable Care Act — CBO's March 2015 Baseline*, Table 2, http://www.cbo.gov/sites/default/files/cbofiles/attachments/43900-2015-03-ACAtables.pdf.

[2] Drew Altman, President, Kaiser Family Foundation, "How Obamacare may be holding down costs," *Politico*, September 26, 2013, http://www.politico.com/story/2013/09/why-obamacare-could-be-holding-down-costs-97354.html.

the economy by about 1 percent, primarily because some people who used to work mainly to obtain health insurance will now choose to work somewhat less, not because employers will eliminate jobs.[3] Early indications suggest, for example, that health reform is allowing young parents to limit their hours of work in order to spend more time with their children.[4] Health reform has also *increased* work incentives for Medicaid beneficiaries, who no longer face losing their health coverage if they work more.

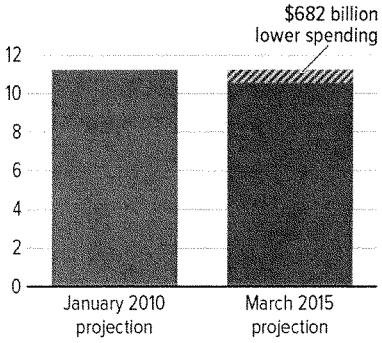
Second, health reform has not created a nation of part-time workers. The share of part-time jobs rose sharply during the recent recession, as it does in every recession, but that situation has turned around. Since President Obama signed health reform into law in March 2010, *all* of the increase in civilian employment has been among people who usually work full time. The average length of the work week has returned to pre-2010 levels. And the share of *involuntary* part-timers — workers who would rather have full-time jobs but can't find them — continues to fall from its post-recession peak. (See Figure 2.)

To be sure, some employers, particularly school districts, have said that they are cutting certain employees' hours to avoid the requirement to provide health coverage to full-time workers, but they are the exception. And while it's too early to know exactly how much health reform will ultimately affect the amount of part-time work, there's every reason to expect the impact to be small as a share of total employment.[5]

FIGURE 1

Projected Federal Health Spending Has Fallen Since January 2010 –Even With Health Reform

Spending in trillions of dollars, 2011-2020



Note: Baseline projections of Medicare, Medicaid, health insurance subsidies, and Children's Health Insurance Program for fiscal years 2011-2020. March 2015 projections include actual spending for FY 2011-2014.

Source: CBPP analysis based on Congressional Budget Office estimates.

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Third, health reform has not increased insurance premiums. From the start, CBO estimated that health reform would *slightly reduce the growth of premiums for employer-sponsored health*

[3] Congressional Budget Office, "Labor Market Effects of the Affordable Care Act: Updated Estimates," *The Budget and Economic Outlook: 2014 to 2024*, February 2014, Appendix C, http://www.cbo.gov/sites/default/files/45010-Outlook2014_Feb_0.pdf.

[4] Dean Baker, "Obamacare Is Making It Easier to Be a Young Working Parent," Center for Economic and Policy Research, May 19, 2015, http://www.cepr.net/publications/op-eds-columns/obamacare-is-making-it-easier-to-be-a-young-working-parent.

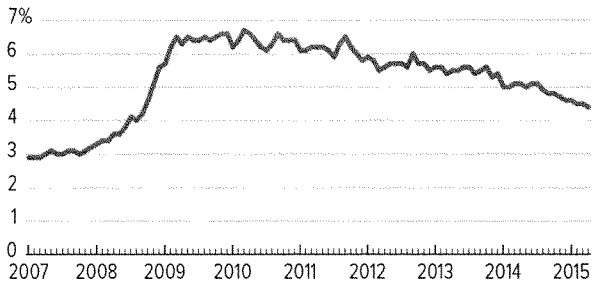
[5] Paul N. Van de Water, *Health Reform Not Causing Significant Shift to Part-Time Work*, Center on Budget and Policy Priorities, January 6, 2015, http://www.cbpp.org/research/health-reform-not-causing-significant-shift-to-part-time-work.

insurance.[6] In fact, premiums for private health insurance have grown even less rapidly than CBO originally estimated.[7]

FIGURE 2

Involuntary Part-Time Work Has Fallen From Post-Recession Peak

Involuntary part-time workers as a share of all workers



Note: Figure shows those working part time for economic reasons, which comprises those working part time because of slack work or business conditions and those who could only find part-time work.

Source: Bureau of Labor Statistics

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All in all, the short-term economic effects of health reform have been small. "The biggest entitlement legislation in a generation is causing barely a ripple in corporate America," says Bloomberg Business. "The [ACA] is putting such a small dent in the profits of U.S. companies that many refer to its impact as 'not material' or 'not significant.'"[8]

Over the longer run, health reform will have several positive impacts on the economy.

First, health reform will *reduce the budget deficit*, as CBO has consistently estimated.[9] Lower deficits will help hold down interest rates, free up more capital for private investment, and potentially boost long-term economic growth.

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[6] Douglas W. Elmendorf, Director, Congressional Budget Office, Letter to the Honorable Evan Bayh, November 30, 2009, https://www.cbo.gov/sites/default/files/11-30-premiums.pdf.

[7] Congressional Budget Office, *Updated Budget Projections: 2015 to 2025*, March 2015, pp. 18-20, http://www.cbo.gov/sites/default/files/cbofiles/attachments/49973-UpdatedBudgetProjections.pdf.

[8] Michelle Cortez and Alex Wayne, "Obamacare Is Barely Denting Corporate Profits," *Bloomberg Business*, February 19, 2015, http://www.bloomberg.com/news/articles/2015-02-19/obamacare-proving-not-a-burden-to-u-s-from-chipotle-to-wal-mart.

[9] Douglas W. Elmendorf, "Estimating the Budgetary Effects of the Affordable Care Act," June 17, 2014, http://www.cbo.gov/publication/45447.

Second, health reform will *increase labor market flexibility*. It will reduce "job lock," a situation in which workers stay in a job only to keep their insurance. As a result, Americans will be more able to switch jobs and start new businesses.[10] As CBO says, "by making it easier for some employees to obtain health insurance outside the workplace," the ACA could "thereby [prompt] those workers to take jobs that better match their skills."[11] The result will be a more productive economy.

Third, expanding health coverage will *improve health outcomes* by helping people obtain preventive and other health services and improving continuity of care.[12] CBO suggests that this could also enhance the nation's economic productivity.

Finally, and most important, the ACA includes a wide range of measures to *slow the growth of health care costs*, which are consuming an ever-increasing share of our economic output and have contributed significantly to the stagnation in workers' real wages in recent years. As these provisions take hold, workers will see larger increases in their take-home pay.

Slowing the growth of health care costs is one of our nation's most pressing economic challenges, and success will benefit employers, workers, and taxpayers. Health care experts agree that the effort will require an ongoing process of testing, experimentation, and rapid implementation of what is found to work. The ACA takes important steps in that process.

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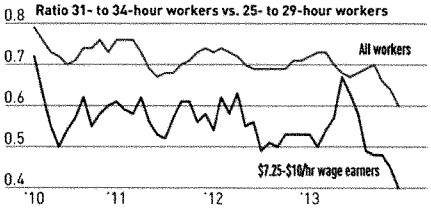
[10] Augustine Faucher, "Healthcare Reform Doesn't Alter the Outlook," Moody's Analytics, March 26, 2010.

[11] CBO, "Labor Market Effects," p. 123.

[12] Jill Bernstein, Deborah Chollet, and Stephanie Peterson, *How Does Insurance Coverage Improve Health Outcomes?*, Mathematica Policy Research, April 2010, http://www.mathematica-mpr.com/publications/PDFs/Health/Reformhealthcare_IB1.pdf.

Hours Breakdown

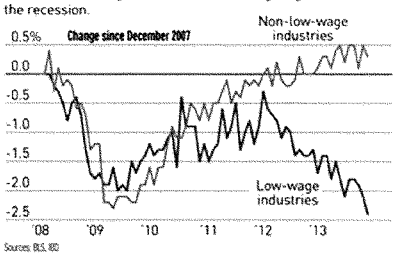
The share of workers clocking just above ObamaCare's 30-hour full-time threshold vs. those just below it has plunged, especially among low-wage earners



Note: Data reflect 3-month average of workers based on usual hours clocked in a main job
Sources: Current Population Survey via Dataferret, IBD

A Tale Of Two Recoveries

The average workweek sank to a record low of 27.4 hours in December in private industries where pay averages up to about $14.50 an hour. Higher earners are working longer than before the recession.

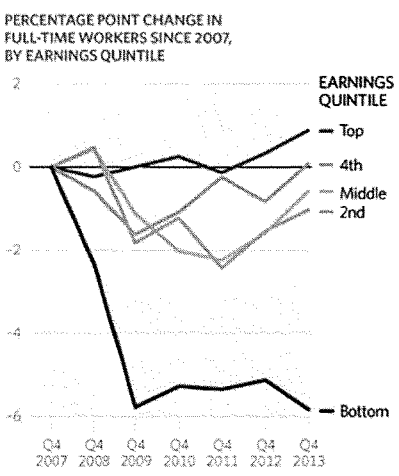


Sources: BLS, IBD

CHART 1

Low-Income Workers Hit Hardest by Recession

The proportion of workers with full-time jobs dropped by nearly six percentage points in the bottom quintile since the recession started.



Notes: Full-time workers are those working 35 or more hours per week. Figures shown are for the fourth quarter of the given year.
Source: Heritage Foundation calculations using data from the U.S. Census Bureau, Current Population Survey.

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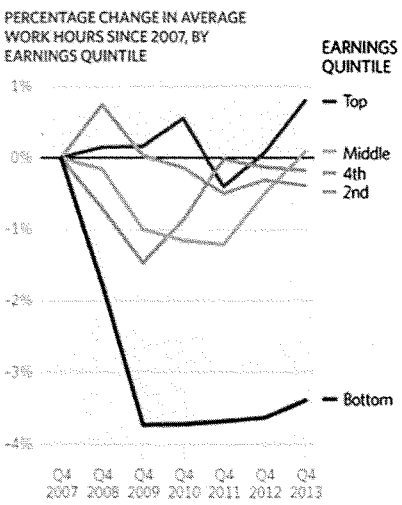
CHART 3

Low-Income Workers Have Lost the Most Work Hours

While the top four quintiles have largely returned to pre-recession work hours, the bottom quintile lags far behind.



Note: Figures shown are for the fourth quarter of the given year.
Source: Heritage Foundation calculations using data from the U.S. Census Bureau, Current Population Survey.

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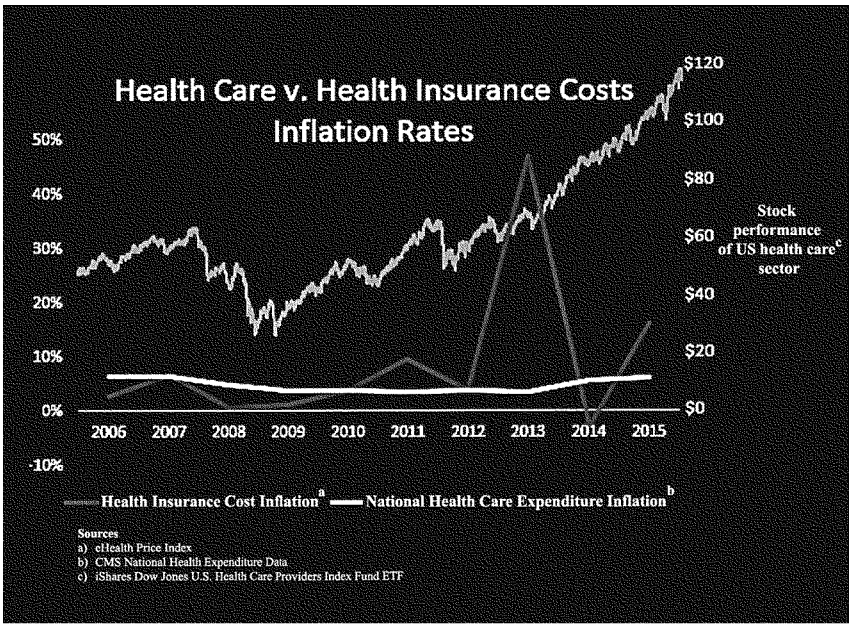
Health Care v. Health Insurance Costs
Inflation Rates
50%
40%
30%
20%
10%
0%
-10%
$120
$100
$80
$60
$40
$20
$0
Stock performance of US health care sector[c]
2005
2007
2008
2009
2010
2011
2012
2013
2014
2015
Health Insurance Cost Inflation[a]
National Health Care Expenditure Inflation[b]
Sources
a) eHealth Price Index
b) CMS National Health Expenditure Data
c) iShares Dow Jones U.S. Health Care Providers Index Fund ETF

Casey B. Mulligan

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June 14, 2015

Honorable Carolyn B. Maloney
Ranking Member
Joint Economic Committee
Washington DC

Dear Representative Maloney:

Thank you for your questions dated June 10 in connection with the June 3 JEC hearing "Examining the Employment Effects of the Affordable Care Act." Your first set of questions is

"1. Professor Mulligan, you stated in your oral testimony that "The estimates here are limited to the long-run effects of the ACA's disincentives on employment, hours, and productivity." You also stated that "in my own work I do not have an estimate of the health and other benefits of subsidizing health insurance...."

However, you also concluded that "fully phased in, the ACA is likely to permanently reduce weekly employment and aggregate work hours 3 percent and national income 2 percent, below what they would have been if the law had not been passed."

a. Given that you do not have an estimate of the health and other benefits of subsiding health insurance, do you stand by your conclusion that there will be about 3 percent less employment permanently as a result of the law? Do you stand by your conclusion that there will be about 2 percent less GDP?

b. You also testified that "Although elements of the ACA may push in the direction of more productivity and employment, they are overwhelmed by disincentives elsewhere in the law." Since you state that you made no attempt to estimate the employment gains from improved health outcomes, do you stand by your assertion that such gains are "overwhelmed" by disincentives in the ACA? If so, how do you come to that conclusion?"

You have quoted, correctly, three sentences from my testimony. Two are from my written submission and one is from my oral remarks. I also understand that you (a) are wondering whether, and how, the three sentences are congruent, and (b) presume that the ACA will improve average health enough to be visible in aggregate economic performance.

For the purposes of answering your question, the first quote is best understood together with the three sentences that immediately follow it in my written submission: "It is limited to long-run analysis in the sense that market participants are assumed to understand and adapt to the new taxes, that market prices are assumed to be flexible, and workers are mobile" and "Most of the 'long-run' effects should be present within about four years of 2014 (the first year of the exchanges). Over a longer time frame, health and other human capital effects of the law would be important and, as noted at the outset, are excluded from my analysis."

In other words, it takes a long time to accumulate enough human capital to have visible effects on aggregate economic performance (as measured by national income or the aggregate employment rate – see, for example my 1993 article with Professor Xavier Sala-i-Martin in the *Quarterly Journal of Economics*); conversely a four-year time frame would be too short to detect the human capital effects.

In short, one way that I "*come to th*[e] *conclusion*" of contractionary effects of the ACA is by looking at the four-year time frame, where the employment effects through health and other human capital are minimal. There is no contradiction or incongruence between the three sentences of mine that you have quoted.

In addition, the best available evidence to date requires us to carefully examine your premise that the ACA improves average health enough to deliver noticeable "*employment gains,*" even over a time frame of decades rather than years. Parts of the ACA likely *reduce* health, especially over long periods of time. The employers that have been spending the *most* on their employees' health care will, beginning in 2018, be *penalized* with the ACA's new, and growing (in real terms), excise tax (a.k.a., "Cadillac tax"). The "exchange plans" created by the ACA have higher deductibles and narrower provider networks than employer plans typically did, thereby discouraging patients from visiting providers (Dr. Sergio's testimony cites an example of this, see also the October 17, 2014 *New York Times* article "Unable to Meet the Deductible or the Doctor").

The ACA reduces the "annual payment rate updates for most categories of Medicare providers" (2013 Annual Report of the Board of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, hereafter "Medicare Trustees", p. 3). As an economist, I understand the federally determined Medicare payment rates as price ceilings, and understand reductions in price ceilings to jeopardize supply – in this case the supply of healthcare to Medicare participants (see also Medicare Trustees, p. 206). The ACA appears to accelerate the closing of rural hospitals, resulting in "longer trips for treatment and uncertainty during times of crisis" (Guy Gugliotta's report in the March 15, 2015 *Washington Post*). This is not an exhaustive list of ACA provisions that might reduce health in the nation's population.

I estimate that Medicaid and exchange plans will cover a number of workers who would have been uninsured without the ACA (Chapter 7 of *Side Effects*; this is the same book that your economics staff received as gifts from me on the day of the hearing). Some of them would have been healthy anyway, but I presume that others of them will be getting health care that they would not have received. This is the kind of effect examined in the 2010 Mathematica Policy Research paper cited in your committee by Dr. Van de Water. He neglected to mention that exchange plans have higher cost sharing than the typical employer plan and that the same study concluded (p. 3) that "High cost sharing (including deductibles, coinsurance, and copayments) can create barriers to obtaining care, reducing necessary service use among those who are insured." Neither Van de Water nor the study he cited look at the moral hazard effect of health insurance that University of Pennsylvania researchers found to "weaken incentives to exert effort to lead a healthy life" (page 25 of this research paper: http://www.nber.org/papers/w18372).

I also draw an important distinction between anecdotes and economic aggregates. It would not surprise me if a journalist were to report on a specific worker for whom exchange or Medicaid coverage was both made possible by the ACA *and* the difference (relative to the out-of-pocket or uncompensated health care, if any, that would have been received absent the ACA) between working and not. But for this effect to be visible in the national economic aggregates, a story like this has to be present at least a million times every week and not be offset by many other stories in the other direction (recall my earlier

testimony on deductibles, price ceilings, etc., and recall that employment is not synonymous with health). In contrast, I estimate that the tax effects featured in my testimony will be directly experienced by tens of millions of adults each week (see Figure 1 in the testimony that I submitted).

More important, I am not aware of any study that does the quantitative work necessary to begin to understand whether the ACA's health-reducing effects are offset by its health-increasing effects, or vice versa. As the CBO was doing when it prepared its February 2014 report on the economic effects of the ACA, I continue to examine new studies and new data and stand ready to update my opinions so that they are based on the available information. At this time, the economic impact estimates provided in my June 3 testimony are the best available.

Your second set of questions begins with

"2. Could you please list the mechanisms by which the ACA could lead to employment gains? Could you please include in this list employment gains claimed by other economists who study this issue?"

The ACA exerts many economic forces on employment, pushing in various directions. I think you are asking me to list these forces, and exclude from the list any forces in the direction of less employment.

A list of ACA-induced economic forces on employment is contained and quantified in my book *Side Effects*, and includes forces "*claimed by other economists*" that are in the direction of more employment. I reproduce the list here as 2A-2F, except to follow your request and suppress the employment-reducing forces. Note that all of 2A-2F are already incorporated in the economic impact estimates I provided in my June 3 testimony. In other words, the ACA's disincentives have already been shown to overwhelm the forces listed below, thereby resulting in a net negative employment impact of the law.

2A. Reducing wasteful health spending by employer plans can be a force toward increasing employment, unless employer punishments are the mechanism for reduced wasteful spending.

2B. By providing new assistance for people above the poverty line, the ACA increases the incentive (or, thanks to longstanding poverty programs, decreases the disincentive) for earning above the poverty line. Some of the ways that families might earn above the poverty line – spending less time in between jobs, or have an additional family member work – would add to the national employment rate.

2C. Because uncompensated care is implicitly means and employment tested (e.g., creditors cannot garnish wages from someone who does not have a job), moving people off of uncompensated care removes a longstanding disincentive to work and earn among the uninsured (although the pricing of the insurance the ACA gives them replaces the longstanding disincentive with an even greater disincentive).

2D. By adding to implicit income taxes, the ACA makes unemployment benefits less desirable. If unemployment compensation were the only type of income subject to the new income tax, then the law's new income tax would be reducing unemployment and increasing employment.

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2E. Among the employers reducing employee hours per week because of the ACA, some of them will hire more employees to make up for some of the lost work time (although it will be more common to reduce employment without reducing hours per employee).

2F. The ACA will also change the *composition* of employment (e.g., "entrepreneurship" as discussed in my June 3 testimony), in some cases in the direction of a more efficient composition, although those are not necessarily effects on *total* employment in the economy.

Your second set of questions continues with

"a. Uninsured workers tend to forego preventive care and delay treatment of minor ailments that often develop into major medical conditions and premature death. Extending coverage through the ACA will lead to a healthier workforce, reducing health-related absences and extending the length of individuals' working lives, thereby increasing labor supply. How would your labor supply estimates change if you were to take these effects into account?

b. The ACA is improving health both for people who would otherwise not have health insurance and for people who were previously insured. Workers are more productive as their health improves. How would your labor productivity estimates change if you were to take these effects into account?"

My estimates would not change, for exactly the reasons cited in my answer to your first set of questions.

Your third set of questions begins with

"3. Senate Majority leader Mitch McConnell has said that the CBO "As we all know they estimate up to 2 million fewer jobs will be created as a result of ObamaCare."

a. According to your research, is his assertion correct? According to any research in the field of which you are aware, is his assertion correct?"

I am not an expert on what the Senate Majority leader has said, or an expert on what "*we all know*". I have carefully followed the CBO's work, and can confirm that CBO concluded that the ACA would result in a "decline in the number of full-time-equivalent workers of about 2.0 million in 2017, rising to about 2.5 million in 2024" (page 117 of their February 2014 report).

Regarding my research, it has a lot of overlap with CBO's. I do believe that CBO has somewhat underestimated the amount by which the ACA will depress employment, especially for the reasons cited in footnote 21 of my June 3 testimony.

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Your third set of questions continues with

"b. According to the information specifically included in your research, how much of the employment reduction that you claim is due to reduced demand by employers?

c. Approximately what share of the possible reduction in employment that you estimate stems from voluntary decisions of workers?"

In essence, my research considers three distinct economic concepts: aggregate labor demand, aggregate labor supply, and taxes (as defined in the field of economics). Three concepts are needed, and not just two, because in the presence of taxes the benefit of employment to an employee is less than employer cost by the amount of the tax. If there were no taxes in the labor market (or if those taxes were not part of the policy to be evaluated), then one could properly work with only the first two concepts: demand and supply. But the ACA contains many taxes.

Essentially all of my employment impact estimates come from the third item: taxes. From an economic point of view, it is arbitrary to assign those taxes to employers versus employees. I am aware that, for example, the ACA's employer penalty is legally the liability of employers and not employees. But the economics – that is, the employment impact and the benefit to employees from working – would hardly be different if instead employees had to pay the penalty. A negative three percent employment impact means that, for three percent of employment relationships, employees and employers *together* were not benefiting enough to justify continuing the relationship and thereby pay the law's new taxes (implicit or explicit).

This is what I was getting at in my June 3 answer to Mr. Grothman. A couple of times Mr. Grothman referred to "discouraging people," which is not technically wrong but I know from a career of teaching public economics that some people misinterpret that as necessarily blaming potential workers for the low employment that results from implicit taxes. But one could just as easily say that employers voluntarily decided to keep wages below the level that would compensate employees for the implicit taxes the latter experience. The economics of taxes does not support one of these interpretations over the other. The best and more precise answer to your subquestions (b) and (c) is therefore the same answer I gave Mr. Grothman that "both parties are influenced by [the various new taxes that have been created since 2007], both the employer and the employee. I cannot really blame one side or the other, but there is no doubt that these programs have resulted in less employment, less people working, and families having less income."

I am aware that, following the CBO's February 2014 report, journalists and a few of the experts emphasized a distinction between employer disincentives and employee disincentives (see pp. 3-4 of my June 3 testimony). I am still waiting for those experts to explain why and how, for the purposes of long-run analysis, they rejected the longstanding economic result that, to quote my June 3 testimony, "The economics of tax incidence demonstrates that it does not matter – in terms of employment and the welfare of market participants – whether an employment tax is the legal liability of employers (thereby reducing the demand for employees) or the legal liability of employees (thereby reducing the willingness of people to work)." Until I see such explanation, I must conclude that the few aforementioned experts are making a serious economics error by dogmatically assigning disincentives to one side of the market versus another.

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Your fourth set of questions is

"4. Before the ACA, a number of workers stayed in jobs that were not the best fit for their skills or career goals because they were afraid to lose health insurance provided by their employer – a situation known as "job lock."

a. Would the ACA reduce job lock? If you think that it would, what are the possible mechanisms by which the reduction would occur? What would the effect be on productivity?"

I am not sure exactly what you mean by "job lock," primarily because your letter did not define "best fit." If, hypothetically, a person slightly prefers working as an artist rather than a plumber when the two occupations have comparable incomes, would artist be his "best fit," even when the only reason that the two occupations have comparable incomes is that the nation's taxpayers are financing (through the social welfare system) significant parts of artists' food, healthcare, and housing?

In their 2014 *Quarterly Journal of Economics* article, Professors Garthwaite, Gross, and Notowidigdo define "job lock" as "indicat[ing] the role of employer-provided health insurance in reducing job mobility" (p. 654). If that is what you mean by job lock, I see two reasons that the ACA's effect would be minimal. First, before the ACA the United States already had statutes in place that allowed workers to continue health insurance (without taxpayer assistance) in between jobs. One of those statutes is commonly known by the acronym COBRA. Second, the 2006 health reform in Massachusetts created new opportunities for unsubsidized individual coverage in between jobs (on top of the COBRA opportunities already in place) yet, according to a paper presented at the Chicago Federal Reserve in March 2014 (and posted on the Chicago Fed web site), the reform did not increase average job mobility in Massachusetts.

As explained in my June 3 testimony, the ACA, at taxpayer expense, "reward[s] full-time job separations such as layoffs, early retirements, and quits" (the 2006 Massachusetts reform is different in this regard: see Chapter 10 of *Side Effects*). In addition, the ACA implicitly subsidizes the churning of workers among employers because, as interpreted by Treasury, the law's employer mandate does not necessarily apply to new employees and gives employers a period of time to defer offers of health insurance while they measure a new employee's work schedule to determine whether he is a full time employee. During this period, the new employee can receive exchange subsidies even though the employer is not being penalized. I am confident that using Treasury funds to, in effect, pay people to quit their jobs will cause at least a few people to quit their jobs. Paying people and employers to churn positions will cause some of them to churn positions. But "*reduc*[ing] *job lock*" seems like an odd way to characterize such behavior.

I find that, in addition to changing the total amount of employment, the ACA will change its composition: the types of work done in the economy will be different. As shown in Chapter 8 of *Side Effects*, some of the changes increase productivity because they relieve some of the productivity losses associated with the longstanding exclusion of employer health insurance premiums from income taxation. Others of the changes exacerbate the previous productivity losses. Many others create new productivity losses as the labor market adapts to the law's many non-uniform taxes and regulations. All together, the job-composition changes created by the ACA make workers less productive.

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Your fifth set of questions is

"5. In your other work, you have stated that 35 million Americans – about 25 percent of more than 157 million people in the labor force – currently work for firms that don't offer health insurance.

a. *Approximately how many total companies are in the United States? Approximately what percentage of the total number of U.S. companies have 50 or more employees and thus are subject to the provisions of the ACA?*

b. *What percentage of those companies do not currently offer health insurance to their employees? What percentage of the total number of U.S. companies fit both criteria – i.e. they have 50 or more employees and they currently do not offer health insurance to their employees?"*

I am not sure exactly what work you are quoting, but *Side Effects* quantifies the fraction of full-time workers who are not offered insurance both with and without the ACA (most of these are working for employers that do not offer health insurance to anyone, but some work for employers that offer coverage to only a subset of their full-time employees – a subtle and perhaps unimportant difference from your description).

More important for the purpose of answering your questions, most of my measurements are sourced from workers and families rather than companies. My objective is to understand the national employment rate, which is the employment rate *of people* and counts all people equally regardless of the type of company that employs them. If I were interested in the rate at which companies did something, rather than the fraction of workers and families in a given employment situation, then company-sourced data would be more important. For the record, my practice in this regard is conventional in my profession. To name a few, M.I.T. Professor Jonathan Gruber's GMSIM and the CBO's HISM models for simulating health insurance reform "create synthetic firms," which is a fancy way of saying that the firms in their models are not real companies but are formed by randomly grouping together real workers as measured by household surveys.

The bottom line is that I am not the best expert to answer your questions 5 about numbers and percentages of companies. The best I can answer is, in connection with the second of your equations 5b, to refer you to Table 3.2 from *Side Effects*, which has some illustrative percentages of workers (NOT companies) in relation to the 50-employee threshold.

Estimating federal revenue effects of the ACA would benefit from quantitative answers to your question 5b, but federal revenue has not yet been the subject of my ACA research. I have estimated labor market impacts, which are different. The answers to 5b, by themselves, would be a distorted picture of the employment effects of the ACA's employer mandate. Indeed, "The sharp disincentive at crossing the large-employer threshold is one reason why the labor market disincentives of the employer penalty loom large relative to the amount of revenue to be obtained from the penalty" and "Specifically, the especially sharp disincentive comes from the fact that the law collects no penalty revenue from small employers." (p. 6 of my June 3 testimony).

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Please do not hesitate to contact me with further questions. My contact information is contained in the letterhead.

Sincerely,

Casey B. Mulligan
Professor of Economics

Casey B. Mulligan

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June 14, 2015

Honorable Alma Adams, Ph.D.
Member
Joint Economic Committee
Washington DC

Dear Representative Adams:

Thank you for your question dated June 10 in connection with the June 3 JEC hearing "Examining the Employment Effects of the Affordable Care Act." Your question is

"Dr. Mulligan, for a long time, most large firms have provided health insurance to their full time employees. Can any of you speak to the impact that ACA has had on workers being covered by health insurance and in what part of the economy (business sector, manufacturing, service sectors) those changes are coming from?"

On the basis of my examination of data from the nationwide Current Population Survey and the nationwide Medical Expenditure Panel Survey, I agree with your premise regarding large firms (I understand "large firm" to refer to any employer with its number of employees exceeding a thresholds such as 50, 100, or 1000).

When the ACA is fully phased in, I expect that 20 million people, or more, will not have access to employer-provided health insurance – here not having "access" means that their employer or family member's employer will not be offering it to them – as a consequence of the law. These are workers and family members who would have been covered through an employer if the law had not been passed.

The loss of an offer of coverage will happen in three ways: (a) the employer decides to cease offering coverage to a full-time worker because of the ACA (despite the law's monetary penalty for doing so), (b) the worker leaves her employer and, because of the ACA, finds a new full-time job with a firm not offering coverage, or (c) the worker leaves full-time employment because of the ACA. The workers in the situations (a) and (b) will tend to be working for the smaller of the "large firms" that would have been offering coverage but for the law. They will disproportionately be workers from families with incomes below 300 percent of the poverty line.

The number of people affected in this way would be greater if the ACA's employer penalty were repealed or not enforced. More details behind these estimates are in Chapter 7 of my *Side Effects* book (cited in my testimony), and in my research paper with Trevor Gallen (cited in *Side Effects*).

Your question specifically refers to an impact that the ACA "*has had*" and therefore perhaps refers to effects already realized as of June 2015, which is before the ACA is fully phased in. I have not measured the size of such effects. Economic reasoning tells us that (a), (b), and (c) would occur to a lesser degree before June 2015 than they would once the law is fully phased in. As of now, it is unclear to employers and employees what the "exchange plans," which are important new alternatives to employer-sponsored coverage, will cost and cover. Perhaps the U.S. Supreme Court will disallow some of the

subsidies. Perhaps the networks of health providers included in the plans will ultimately be narrower, or wider, than they are now. Perhaps exchange plan premiums will increase sharply after the law's transitional reinsurance and risk programs expire. These are all reasons why employers might wait to drop coverage, and workers would hesitate to accept a job that did not offer coverage, until the new alternatives are more clear cut.

Through news media reports, I am aware of instances of employers' already dropping coverage, apparently because of the ACA. Last fall, the *New York Times* (page B9 of the October 7 edition) reported that "Walmart Stores, the world's largest retailer and the nation's largest private employer, said on Tuesday that it would terminate health insurance coverage for about 30,000 part-time workers, joining a string of retailers that have rolled back benefits in response to the Affordable Care Act." Because anecdotes are not a substitute for economic reasoning or nationwide representative samples, I do not yet know what stories like this say about the national averages.

Sincerely,

Casey B. Mulligan
Professor of Economics

Questions for the Record submitted by Congresswoman Alma Adams, Ph.D. to

Dr. Joseph P. Sergio

Joint Economic Committee Hearing:

"Examining the Employment Effects of the Affordable Care Act"

1. Health care reform offers substantial benefits to low income and Middle class individuals and families. Dr. Sergio, can you explain what your company is doing to abide by ACA provisions with regard to providing health insurance for your workers?

The Sergio Corporation

1919 South Michigan Street, South Bend, IN 46613
574.234.0443

Congresswoman Adams,

The Sergio Corporation has found that the ACA's health care reform has not offered substantial benefits to our employees or their families, but just the opposite. Our company cares deeply about our employees. They are like family members. We have been providing health insurance and contributing to an HAS for our employees for years. Abiding by the new insurance requirements in the ACA has led to increased health insurance premiums, increased health insurance deductibles, and offered inferior policy provisions, all with very unpredictable future costs.

In short, the ACA has made it more difficult to provide health insurance to employees and has provided a disincentive to job growth. We are now trying to grow without additional full-time employees to protect the opportunities of the current full-time employees we have. We feel as if we are now trying to protect our employees from the negative impact ACA has had on their needs.

Respectfully,
Joseph P. Sergio, Ph.D.

Joseph P. Sergio, Ph.D.
President
The Sergio Corporation

Questions for the Record submitted by Congresswoman Alma Adams, Ph.D. to

Dr. Paul N. Van de Water

Joint Economic Committee Hearing:

"Examining the Employment Effects of the Affordable Care Act"

1. Dr. Van de Water, while we know that ACA will have a significant impact on small businesses, is there a difference in the overall economic impact for various types of industries affecting small businesses? For instance, is the manufacturing sector more impacted than that of service providers?

   Answer: The ACA will benefit small businesses generally, but particularly those in low-wage industries. Making affordable health coverage available for individuals will make it easier for workers to work at smaller firms, even if those business do not provide health insurance.

2. Dr. Van de Water, as you know most large employers already offer health insurance for their employees. How has the ACA helped smaller firms provide affordable coverage to their employees?

   Answer: Small businesses may purchase health insurance through the newly established SHOP exchanges, which reduce administrative costs, make it easier to compare insurance plans, and increase competition in the small group market. Employers with 25 or fewer employees with an average pay of $50,000 or less are eligible for tax credits to help cover the cost of health insurance. New rating rules prevent insurers from raising rates if an employee or family member requires expensive treatment. The cost-control features of the ACA will make health insurance more affordable for all businesses.

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